ECONOMIC EQUITY ACT AND RELATED TAX AND PENSION REFORM

HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

OCTOBER 25, 1983

Serial 98–51

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
29-540 O WASHINGTON : 1984

H781-26

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ECONOMIC EQUITY ACT AND RELATED TAX AND PENSION REFORM

TUESDAY, OCTOBER 25, 1983

House of Representatives,
Committee on Ways and Means,
Washington, D.C.

The committee met, pursuant to notice, at 9:45 a.m., in room 1100, Longworth House Office Building, Hon. Dan Rostenkowski (chairman of the committee) presiding.

[The press releases announcing the hearing follow:]

[Press Release No. 15, Monday, Sept. 26, 1983]

Hon. Dan Rostenkowski (D., Ill.), Chairman, Committee on Ways and Means, Announces Hearings on Economic Equality in Various Tax, Pension, and Related Federal Laws as Addressed by the Economic Equity Act and Similar Legislation

The Honorable Dan Rostenkowski (D., Ill.), Chairman of the Committee on Ways and Means, today announced that the Committee would hold public hearings on October 19 and 20, 1983, to hear testimony on the issue of economic equality in various tax, pension, and related Federal laws as addressed by the Economic Equity Act (H.R. 2090, Schroeder, et al) and similar legislation.

Earlier this year, the Ways and Means Committee's Subcommittee on Public Assistance and Unemployment Compensation held hearings on the child support enforcement provisions of H.R. 2090 and related legislation. In announcing these further hearings to focus on tax and pension matters, Chairman Rostenkowski observed, "It is well past the time that the question of economic equity for homemakers as well as working women received a full and fair hearing by this Committee, I congratulate the authors of H.R. 2090 for the initiative they have demonstrated in bringing in bringing these matters to the attention of the Committee and indeed the entire Congress." The hearings on October 19 and 20 will be held in the Committee's main hearing room, 1100 Longworth House Building, beginning at 9:30 a.m. each day.

BACKGROUND

The Committee solicits testimony on the following issues addressed in H.R. 2090 and related legislation, as noted:

Retirement and pension policy

Individual Retirement Accounts.—H.R. 2090 and H.R. 2099 (Ferraro, et al.) would allow the IRA contribution limit for the lesser earning spouse to be determined on the basis of the other spouse's earnings. The bill would also allow alimony to be counted as compensation for purposes of the IRA limit. In related bills before the Committee, the spousal IRA limit would be liberalized to benefit spouses who have small or no earnings (see H.R. 2468, Bereuter, et al., H.R. 2595, Dreier of Calif., et al., H.R. 2772, Kennelly, Matsui, et al., H.R. 2984, Lujan, et al., H.R. 3266, Corcoran, et al., H.R. 3307, Sensenbrenner, et al., H.R. 3309, Thomas of Calif., Moore, Duncan, et al., H.R. 3333, Daub, and H.R. 3554, Lewis of Florida, et al.). Many of these bills would allow the spouse with no earned income to make deductible contributions to an IRA based on the other spouse's earnings. Others address the situation where the individual's spousal IRA is adversely affected (under the 100 percent of compensation rule) because the spouse had less than $250 of earnings during the year.

Survivor benefits under pension plans.—H.R. 2090 would extend the joint and survivor annuity rules to require plans to provide survivor annuities in certain cases. Further, the election not to have a joint and survivor annuity would have to be made both by the participant and the participant's spouse. (H.R. 2100, Ferraro, Pease, et al., and H.R. 3554 contain identical or similar provisions.)

Assignment of benefits.—H.R. 2090 provides that the present law prohibition against the assignment or alienation of pension benefits does not apply in the case of any judgment, decree or order pursuant to a State domestic relations law relating to child support, alimony, or marital property rights if certain conditions are satisfied. (H.R. 2100 and H.R. 3554 contain similar provisions.)

Periods of employee service taken into account.—H.R. 2090 would reduce from 25 to 21 the age at which an employee's services must be taken into account for participation in a pension plan. Further, a plan could not ignore service after the age of 21 for vesting purposes. Rules are also provided for the crediting of service for participation, vesting, and benefit accrual requirements for periods the employee is absent on approved maternity or paternity leave. (H.R. 2100 and H.R. 3554 contain similar provisions.)

Targeted jobs credit for displaced homemakers

H.R. 2090 would include displaced homemakers under the targeted jobs tax credit of section 51 in the Internal Revenue Code. Under present law, targeted groups include economically disadvantaged youth, Vietnam veterans, public assistance recipients, ex-convicts, and referrals from certain other programs. "Displaced homemaker" is defined as one who (i) has not worked in the labor force for a substantial number of years, (ii) has been dependent either on public assistance or another family member and such income is no longer available, and (iii) is a member of an economically disadvantaged family. H.R. 2127 (Kennelly and Ferraro, et al) contains identical provisions and H.R. 3554 would also eliminate the expiration date on the credit for this targeted group of homemakers.

Heads of households

H.R. 2090 would increase the zero bracket amount for heads of households from $2,300 to $3,400, the same as that for joint returns, effective for tax years beginning after 1983. Each succeeding bracket amount in the rate schedule is also increased by $1,100. Identical provisions are also included in H.R. 2126 (Kennelly, et al).

Dependent care

H.R. 2090 would increase the child and dependent care tax credit and make it refundable. The maximum credit percentage is increased for lower income families from 30 percent to 50 percent. The credit percentage would also phase down more slowly as income increases. H.R. 2696 (Mikulski, et al) and H.R. 3554 would also extend the credit to spouses performing substantial volunteer services.

H.R. 2090 also would grant tax-exempt status (based on educational purposes) and eligibility for tax deductible contributions to dependent care organizations that are open to the general public.

Certain of these provisions are also contained in H.R. 1991 (Conable, Mikulski, Kennelly, Shannon, Downey, et al), H.R. 1603 (Ferraro, et al), and H.R. 2093 (Mikulski, Shannon, Downey, et al).

Earned income credit

H.R. 1603 would increase the earned income credit for certain working families with dependents and would provide that such payments are not to be counted in advance for Aid to Families with Dependent Children (AFDC) purposes.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests to be heard in writing no later than close of business, Wednesday, October 12, 1983, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. Notification to those scheduled to appear will be made by telephone as soon as possible after the filing deadline.

It is urged that persons and organizations having a common position make every effort to designate one spokesman to represent them in order for the Subcommittee to hear as many points of view as possible. Time for oral presentations will be strict-ly limited with the understanding that a more detailed statement may be included in the printed record of the hearing. This process will afford more time for members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assured the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statements to the full Committee office, room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to comply with this requirement may result in the witness being denied the opportunity to testify in person.

Each statement to be presented to the Subcommittee or any written statement submitted for the printed record must contain the following information: (1) The name, full address, and capacity in which the witness will appear as well as a telephone number where he or his designated representative may be reached; (2) a list of any clients or persons, or any organization for whom the witness appears; and (3) a topical outline or summary of comments and recommendations.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit at least six (6) copies of their statement by the close of business, Friday, October 28, 1983, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit additional copies for this purpose if provided to the full Committee office before the hearing begins.

[Press Release No. 15 Revised, Wednesday, Oct. 12, 1983]

HON. DAN ROSTENKOWSKI (D., ILL.), CHAIRMAN, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES ANNOUNCES A CHANGE IN THE SCHEDULE OF FULL COMMITTEE HEARINGS ON ECONOMIC EQUALITY IN VARIOUS TAX, PENSION, AND RELATED FEDERAL LAWS AS ADDRESSED BY THE ECONOMIC EQUITY ACT AND SIMILAR LEGISLATION

Hon. Dan Rostenkowski (D., Ill.), Chairman of the Committee on Ways and Means, U.S. House of Representatives, today announced a change in the dates for the public hearing previously scheduled to be held on October 19 and 20, 1983 (see Press Release #15), on the issue of economic equality in various tax, pension and related federal laws as addressed by the Economic Equity Act (H.R. 2090) and similar legislation. The hearing will now be held on Tuesday, October 25 beginning at 9:30 a.m. and, if necessary, Wednesday, October 26, 1983. All other hearing details remain the same.

Chairman ROSTENKOWSKI. The committee will come to order.

I am pleased to welcome you this morning to hearings on the Economic Equity Act and related tax and pension reform. Those of you who are about to testify represent only a small measure of interest in this topic. We are here as a tribute to the commitment and perseverance of our colleagues, Barbara Kennelly, Geraldine Ferraro, and Olympia Snowe, among others. They have focused attention on the present pension law provisions which appear to be inadequate in light of changes in our society over the past 20 years.

Two major questions have been framed which we hope to explore: first, are the ERISA and IRA provisions of present law sufficient to cover those who must rely on a beneficent spouse to provide for their retirement security? and second, are the provisions covering the dependent care credit adequate for today's working couple, particularly the couple trying to work themselves out of poverty?

I look forward to your views and I anticipate significant movement in straightening out these matters.

[The prepared statements of Mr. Conable and Mrs. Kennelly follow:]

STATEMENT OF HON. BARBER B. CONABLE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

I am both pleased and sad to be here at these hearings this morning. I am pleased that our Chairman, Dan Rostenkowski, has focused the attention of the Ways and Means Committee on issues of economic equity for women. The bulk of those issues appear to be under the jurisdiction of our Committee, so it is important that we get to work on them.

I am sad, however, that these issues are still with us and that it is even necessary, in 1983, that we have such a hearing. The role and position of women in our American society has improved and matured in countless ways, but the economic problems that women faced generations and decades ago are still very evident today. Women still earn consistently less than men on average, even when educational, levels and other factors are taken into account—in fact women's earnings as a percentage of men's earnings have simply not budged for years. Single women raising children alone are a growing economic problem, and as we heard in our hearing last week, account for a major portion of the nation's poverty today. Many women who wish to stay home while their children are very young find they cannot do so because theirs is the only family income or their income is needed, in addition to their husband's, to keep the family out of poverty. Women often bear the major economic burden of dependent care, both as users and as grossly underpaid providers. Elderly women are still vulnerable economically and their daughters are still expected to contribute unpaid home nursing services.

Even more depressing are recent findings that some of these problems are likely to get worse before they get better. I would like to insert into the record of these hearings a study that the Congressional Budget Office made at my request earlier this year, I asked them to look at what is known about demographic and social trends and to project what those trends meant for dependent care services for both children and the elderly. I am afraid the outlook is not very encouraging.

Now despite this depressing litany of economic woes, it is heartening that some efforts to address these problems have been made in recent years. I, of course, am most familiar with changes in the Tax Code since that is our responsibility here at Ways and Means. To strike a somewhat partisan note, it is interesting that most of these changes have occurred either as a result of Republican pressure here in Congress or during a Republican Presidential Administration, or both. The Dependent Care Tax Credit was first enacted in Public Law 94-455, October 4, 1976, during the Ford Administration and it is fair to say that its enactment as well as its subsequent expansion during the Reagan Administration (Public Law 97-34, August 13, 1981) was the result of substantial Republican interest in both House and Senate. The Earned Income Tax Credit which benefits low income families with children was added to the Tax Code during the Ford Administration (Public Law 94-12, March 29, 1975.) During the Reagan Administration, Spousal IRA's first crept into tax law in their present limited form in the 1981 Economic Recovery Tax Act (Public Law 97-34, August 13, 1981) as did the provision that alimony may be used to a limited extent for IRA contributions. The deduction for two-worker couples to offset the income tax marriage penalty was actively supported both by the Reagan Administration and Republicans in Congress and was enacted in 1981 (Public Law 97-34, August 13, 1981.)

I understand that Administration witnesses will give testimony today as to their proposals to build on these already substantial achievements, particularly in the important areas of dependent care and retirement savings. This is in addition to Administration initiatives in the pension area and in the child support enforcement area, both of which I have sponsored. (Incidentally, I am pleased to see that the child support enforcement initiative is already moving forward. The Public Assistance Subcommittee reported it to the full Ways and Means Committee last Thursday, and full committee action is expected to occur before very long.)

I look forward to hearing from today's witnesses their comments on proposals which have already been made and their suggestions as to other alternatives which we should consider to improve economic equity for women in America.

[Attachment]

Demographic and Social Trends: Implications for Federal Support of Dependent-Care Services for Children and the Elderly—Staff Analysis, June 15, 1983

(Prepared by the Staff of the Human Resources and Community Development Division, Congressional Budget Office)[1]

SUMMARY

During this decade, a combination of demographic, economic, and social trends will increase the demand for dependent-care services for young children (under age 10) and elderly persons with health problems or functional limitations. This paper analyzes the likely changes in demand, examines their implications for federal policy, and discusses possible federal responses.

Contributing to an overall increase in the demand for nonfamily dependent-care services (such as day care for children and homemaker services for the dependent elderly) will be a rapid growth between 1980 and 1990 in the numbers of young children and elderly individuals—especially those over age 80. Continued growth in the labor-force participation of women and in the proportion of young children living in single-parent households is expected to exacerbate the impact of these population changes, by leading a greater proportion of families to seek care by individuals or organizations outside the family. Moreover, the number of young children and elderly persons living in poverty will probably increase, perhaps substantially, over the decade. Finally, while changes in the supply of dependent-care services are difficult to project, it is likely that in the absence of federal intervention the supply of care accessible to lower-income families will not keep pace with the increase in demand.

SUMMARY TABLE 1.—NUMBER AND PERCENT OF CHILDREN UNDER AGE 6, BY NUMBER OF PARENTS IN THE HOUSEHOLD AND LABOR-FORCE STATUS OF MOTHER, 1980 AND PROTECTIONS FOR 1990

[Children in thousands]

	1980	1990	Change	
			Number	Percent
Children with two parents, mother not in labor force	8,435	7,594	−841	−10
Children with mother only, not in labor force	1,219	1,609	390	32
Children with two parents, mother in labor force	6,930	9,394	2,464	36
Children with mother only, in labor force	1,777	2,786	1,009	57
Other[1]	1,268	1,614	346	27
Total children	19,629	22,997	3,368	17

[1] This category includes children living with their fathers only as well as those living with neither parent.

Source: Text Tables 2 and 3.

Taken together, these trends suggest that a federal response could be a major determinant of the access that many of the growing number of young children and dependent elderly—especially those with low incomes—will have to nonfamily care. Altering the current federal programs that support dependent-care services, to increase targeting or efficiency while maintaining present funding levels, could accommodate part, but not all, of the increased demand. Expanding federal support could further reduce the problem, but at the cost of increasing the deficit, raising taxes, or requiring offsetting reductions in other federal programs.

Factors affecting demand for dependent-care services

Four factors are likely to increase the demand for dependent-care services during the 1980s: Shifts in the age structure of the population; a concomitant increase in the number of elderly with health problems and functional limitations; changes in family composition; and trends in employment.

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[1] This analysis was prepared by several members of the staff of the Human Resources and Community Development Division of the Congressional Budget Office, at the request of the Committee on Ways and Means. Questions may be addressed to Nancy M. Gordon, Assistant Director for Human Resources and Community Development, CBO (226-2669).

During the 1980s, the number of young children is expected to increase by roughly 4.8 million, of whom almost 3.4 million will be under age six. During the same period, the total elderly population is expected to grow by 6.3 million, with the old-elderly population accounting for roughly 2.3 million of that increase. One consequence of the growth and aging of the elderly population is likely to be a rise in the number of elderly with health problems and functional limitations.

Changes in household composition expected during the remainder of the decade are likely to increase the demand for dependent-care services still further. In the case of young children, most important is the expectation that the proportion living in single-parent (usually, mother-only) households will continue to rise—albeit at a slower rate than during the 1970s—resulting in roughly 3 million more children under age 10 living in single-parent families in 1990 than in 1980. Moreover, about half of this increase will be children under age six. Among the elderly, the most important trend in household composition will be the increased proportion of individuals (mostly women) living alone—or with someone other than a spouse—that the aging of the elderly population will likely bring.

A continued increase in the labor-force participation of women is also likely to have a substantial impact on the demand for non-family dependent care. Continuation of current trends would result in a sizable increase in the number of young children reared by two employed parents or by an employed only parent. The number of children under age six living in such households could increase by about 3.4 million between 1980 and 1990, while the number living with two parents, only one of whom is in the labor force, could actually decline by nearly 1 million (see Summary Table 1). Continued growth in the labor-force participation of women—particularly married women—might also reduce the availability of family members to care for dependent elderly persons. On the other hand, the extent to which newly employed women would otherwise be caring for elderly relatives is unclear.

Factors bearing on federal support for dependent-care services

Perhaps the most significant factor bearing on a federal response to the likely increase in demand for dependent-care services is that the number of young children and dependent elderly persons living in poverty will probably increase between 1980 and 1990, perhaps by a large amount.

The number of young children living in poverty will be determined by the overall growth in the population of young children, the increasing proportion of young children living in mother-only households, and general economic conditions. The proportion of children in female-headed households living in poverty is consistently high and varies relatively little with economic cycles: roughly half of all children under 18 in such households, and between 61 and 66 percent of children under 6, fell below the poverty line in each from 1971 through 1981. On the other hand, the poverty rate among young children in male-headed households has shown more sensitivity to economic conditions. Accordingly, the growth in the population of young children, coupled with the shift of the population of young children toward single-parent households, can be expected to increase the number of young children in poverty; improvement in the economy will tend to decrease it, primarily by lowering the poverty rate among male-headed households.

Barring a stronger economic recovery than anticipated, however, the combined effect of these three factors is likely to be appreciably more young children in poverty. For example, if the poverty rates for both male-and female-headed households in 1990 equalled their 1979 (pre-recession) levels, the number of children under age six living in poverty could increase by about 1 million between 1980 and 1990 (see Summary Table 2).

SUMMARY TABLE 2.—NUMBER AND PERCENT OF CHILDREN UNDER AGE 6 IN POVERTY IN 1980 AND PROJECTIONS FOR 1990 BY AGE AND HOUSEHOLD TYPE, ASSUMING 1990 POVERTY RATES EQUAL TO THOSE IN 1979

[Children in thousands; rates in percents]

	1980		1990 [1]		1980–90		
	Number in poverty	Percent in poverty	Number in poverty	Percent in poverty	Total additional children	Additional children in poverty	Additional poor as percent of total additional
All households	3,950	20	4,918	21	3,533	968	27
Female headed	1,953	65	2,711	62	1,399	758	54
Male headed	1,997	12	2,207	12	2,135	210	10

[1] 1990 poverty rates for each household type (male and female headed) equal to corresponding 1979 rates, to reflect the most recent prerecession period. Overall poverty rate in 1990 does not equal 1979 rate because of the increasing proportion of children in female-headed households.

Source: Current Population Survey, series P–60 publications and unpublished tabulations; and tables 1 and 2 of this report.

An increase—perhaps sizable—in the number of elderly persons in poverty is also a clear possibility. Although the poverty rate among the elderly is lower today than in 1970, much of the decline occurred early in the 1970s, and the rate increased again in both 1979 and 1980. Whether the rate will stay constant, decline again, or increase further is unknown, but unless it declines rapidly the growth in the elderly population will lead to an increase in the number of elderly persons in poverty. For example, unless the poverty rate among the elderly declines by at least one-fifth by 1990 (to a rate of 12.3 percent), more elderly persons will be living in poverty in 1990 than in 1981. Moreover, factors that now contribute to the high poverty rate among the elderly—such as the large number of unmarried elderly women—will continue to affect the elderly population throughout the decade.

Likely trends in the private supply of services and in support by state and local governments also bear on the importance of a possible federal response to the increased demand for dependent-care services. While future supply is hard to predict, it may not fully keep pace with demand in the absence of federal intervention. In that case, average prices would rise, and families whose incomes did not keep up might shift to lower-quality care. Support by subnational governments is also unlikely to keep pace with demand, given the fiscal problems of many state and local governments and the uneven concentration of dependency-prone populations in some jurisdictions.

Issues and options concerning a federal response

Several questions arise in considering any potential federal response to the increasing demand for dependent-care services. One is whether to increase federal support of those services. If the congress decided to provided additional support, it could choose between direct-expenditure and tax-expenditure approaches to dependent care; each approach has advantages and disadvantages. Finally, there would be a variety of specific options for structuring any new services.

Issues

Although a portion of the increased demand for services might be accommodated by altering present federal programs to make them more efficient or more carefully targeted on those in greatest need, changes of this sort would probably be insufficient to keep pace with the increase in demand. On the other hand, possible increases in the level of federal support would have to be appraised in the light of current fiscal stringency. Any increase in federal support would mean an increase in the deficit unless increases in taxes or reductions in other federal programs were made.

If federal support for dependent-care services did not keep pace with the anticipated increase in demand, however, some low- and moderate-income families would be likely to purchase lower-quality or fewer services. In the case of child care, this could entail a shift to more informal care, to lower-quality and less supervision, and, in some instances, to leaving children unsupervised. Although the implications of such changes are not fully known, it is likely that the physical, emotional, and educational needs of the children would be met less will. For dependent elderly persons remaining at home but receiving no services, aspects of care such as hygiene and diet could suffer. A lack of services could also hasten their institutionalization—affecting their quality of life and, in some cases, imposing costs on federal and state governments through Medicaid.

If the Congress decided to increase federal support of dependent-care services, it could do so through tax expenditures, direct expenditures, or some combination of both. Targeting benefits on low-income families is likely to be more practical with direct-expenditure programs than with tax expenditures because of the nature of the tax system. Only about 7 percent of the 4.6 million families making use of the current dependent-care tax credit had incomes below $10,000 in 1981. Making the credit refundable would increase the usefulness of the credit to some low-income families, but the long delay before reimbursement would make even a refundable credit useless for some. Moreover, experience with the earned income tax credit (EITC) indicates that an advance-payment provision does little to alleviate this problem.

On the other hand, tax expenditures have the advantage of offering recipients greater flexibility in choosing the type of care they prefer, with the potential of lessening the influence of the government in those choices. They also can be an effective means of directing aid to middle- and lower-middle-income families. Moreover, tax expenditures might in some instances encourage relatives to contribute to care rather than turn to publicly supported services.

Options for structuring new services

If additional support was provided through either tax expenditures or direct expenditures, the Congress would face a number of difficult decisions about how to structure that aid to maximize its effectiveness.

Child care.—One central decision in providing support for child care would be that of targeting by income. Given likely funding limitations and the rapid growth in the number of young poor children, the extent of targeting by income would be a critical determinant of the proportion of such children receiving supported services. A second decision stems from the fact that this decade will see increases in the demand for a variety of types of care, ranging from infant care to after-school care; the Congress could either specify the types of care to be supported or leave such decisions to an executive agency or to subnational governments. Finally, the impact of a federal initiative would hinge in part on its ability to focus some funds on lower-cost forms of care and to stimulate private alternatives.

One possible response would be to alter current programs to increase their cost-effectiveness or their degree of targeting. For example, the Human Services Block Grant (HSBG)—which provides funds to states to finance a broad range of social services—could be altered to reestablish a day-care setaside, channel funds into lower-cost forms of day care, require targeting of services on low-income families, or prescribe diversification of services to include after-school care or infant care. Total support could be expanded through increased funding of current programs, such as Head Start or the HSBG program, or through new programs, such as a dependent-care voucher system. Finally, tax incentives or loans could be used to encourage employment-based day care, and the exclusion of fringe benefits from taxation could be altered to encourage more flexible work hours, thereby lessening dependence on non-family care.

Dependent care for the elderly.—In the case of the elderly, a central issue would be the fact that the dependent elderly are difficult to identify and our current definitions of dependency are unreliable. Accordingly, a key decision on a federal initiative would be how to limit support to those truly dependent. In addition, to use funds most efficiently, a federal initiative would have to be designed to avoid incentives for the elderly in order to alter their living arrangements to substitute public care for care by relatives. Finally, since the needs of persons living alone, those living near relatives, and those sharing a household with relatives are different, a federal initiative would need to embody considerable flexibility to serve all three groups effectively.

Specific options for the elderly could include either direct expenditures or tax expenditures. Increasing direct expenditures could provide a comprehensive program to help moderately disabled elderly remain in their homes, although such an option would be costly. To reduce such costs, eligibility could be limited to those with the most severe disabilities or to those with low incomes (for example, through the Medicaid program), or beneficiaries could be required to share in the costs. To further limit the cost of any new program of dependent care, direct provision of services could be financed by reducing other health or social service programs. Such a refocusing might be difficult, however, since much of the social services now provided to the elderly represent some form of dependent care. Finally, tax expenditures could be used to provide incentives for relatives to care for their dependent elderly. While such benefits would allow for great flexibility, they often would not aid those with low incomes and might only introduce a public subsidy for care that would have been provided anyway.

Statement of Hon. Barbara B. Kennelly, a Representative in Congress From the State of Connecticut

Mr. Chairman, I want to express my great appreciation to you for your making possible these important hearings on the Economic Equity Act.

While I believe there is now general agreement in American society that men and women are entitled to equal economic rights and equal economic opportunity, public policy has yet to catch up with the changing status of women in the home and in the workplace.

Eighty-three years ago, the life expectancy of a 20-year-old woman was 64 years. According to a recent publication of the Women's Research and Education Institute, she could expect, on average, to be widowed at age 52 and to die before her last child left home. Eighteen years of her life would be spent in childbearing. It would be highly unlikely that she would be asked to care for her more elderly parents during her own old age. Today, a woman who marries at age 22 can expect to live to about 79 years old, to devote only 10 years to childbearing, and to see her last child leave home when she is 48. She has a good chance of caring for her own mother when she grows older; she is likely to care for her dependents for some time alone because her first marriage will have only a fifty-fifty chance of not ending in divorce.

Just thirty years ago, seventy percent of American households were headed by a man who was the sole breadwinner for his family. Now fewer than 15 percent of American households fit this traditional pattern. Women are entering the paid workforce in large numbers and at an increasing rate. They are working for their own economic security and for the economic security of their families, particularly their children. Over 51 percent of all families now rely on two wage earners; twenty percent of all families (with over 10 million children) are headed by a woman alone.

While the economic responsibilities borne by women have probably never been greater, women still face discriminatory policies as housewives and jobholders in wage, promotion, tax and pension policies. The Economic Equity Act is an important step toward the elimination of these inequities and the full recognition of the continuing and valuable role women play in caring for children and dependents. I look forward to working with this Committee and the witnesses here today in moving this bill through the legislative process.

Chairman **Rostenkowski**. The first of our colleagues to testify will be Pat Schroeder.

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO, AND CO-CHAIR, CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

Mrs. **Schroeder**. Thank you, Mr. Chairman.

As cochair of the Congressional Caucus on Women's Issues, along with Olympia Snowe who is also here, I cannot tell you how pleased we are that this very prestigious committee would give time to this bill and move on this because it is so terribly important.

Let me give the general framework of the Economic Equity Act and some of its history and then I am sure that others will be going into a few more details.

As you know, we in the caucus have been very worried about the economic status of women. The feminization of poverty has gotten worse. At the beginning of the year we spent 3 months negotiating with the Senate on specific bills that might be passed that would not bleed the Treasury dry, but would begin to correct some of these things.

It came from all sorts of impetus and I think every Member of Congress has had many letters describing the plight of women who suddenly found themselves in poverty and had never figured that they would ever be in that situation.

The marvelous thing about this bill and the reason I am glad you are taking up the parts that come to your committee is that it finally deals with specific remedies for a specific problem. Instead of saying, help children, it toughens child support enforcement.

I particularly want to commend Barbara Kennelly and members of the subcommittee who moved to mark that up and have that on a fast track. Instead of saying, help displaced homemakers, it provides tax credits for employers who do hire them. It gives help.

Instead of saying, help older women, it provides specific means they can, through spousal IRA's and many other things.

We see that more and more women who are financially dependent on men are terribly vulnerable in this society and poverty is just not far away. A recent study of 3,000 divorced couples found that after the first year of divorce women's income dropped by 73 percent while the husband's rose by 42 percent.

So I cannot thank you enough for beginning to move on this. I am just here to bring the general historic reasons for why we are doing it and I really am pleased that you are taking this on and tackling this topic and I thank you very, very much.

[The prepared statement follows:]

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO, AND COCHAIR, CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

The Congressional Caucus for Women's Issues, which Congresswoman Olympia Snowe and I co-chair, are pleased that the House Ways and Means Comittee is holding these two days of hearings on a top priority of the Caucus—the Economic Equity Act. I know we speak on behalf of all 127 Members of the Caucus in asking for action on the Economic Equity Act.

Women who write their horror stories to members of Congress these days are not writing about abstract injustices, they are writing about specific wrongs done to them.

A Virginia man walked out of his marriage, leaving his wife with a two-month-old baby, a five-year-old girl and a seven-year-old disabled son. He remarried, and no longer pays child support.

A widow in California was denied her husband's pension because he died of a heart attack at 54, ten months before qualifying for early retirement at a company where he worked 33 years.

A housewife in Minnesota cannot use her alimony to open an Individual Retirement Account, even though it is her only source of income.

They are mothers who cannot collect child support, widows with no pensions, homemakers flung into the job market with no skills, pregnant women cracking under the strain of job and home.

A look at the statistics on women's economic status in the United States explains why our society desperately needs specific answers to economic disparity.

Women who are financially dependent on men are vulnerable. Poverty is just a man away. A California study of 3,000 divorced couples found that after a year of divorce, the wife's income dropped by 73 percent while the husband's rose by 42 percent.

Divorced women generally have custody of the children. And as female-headed families increase, chances of being poor increase. Families headed by a woman grew 51 percent in the past decade and the number of persons in poor families headed by women rose by 54 percent. The number of persons in poor families headed by men, meanwhile, decreased by 50 percent.

Concerned women and men in Congress looked at the facts and figures about women and the economy and decided to tackle the economic injustices in one package, though parts of the Economic Equity Act will be tacked onto other bills or proposed as separate legislation.

The act has five parts, each addressing a different economic disparity. Representative Snowe will go through the titles of the EEA that are currently before your committee. However, I would like to take this time to congratulate your committee and especially your Subcommittee on Public Assistance and Unemployment Compensation for promptly acting on the new addition to the Economic Equity Act this Congress—Title V on Child Support Enforcement. In the U.S. Commission on Civil Rights Report "Disadvantaged Women and Their Children," the lack of strong child support enforcement was mentioned as a crucial factor in the feminization of poverty. I look forward to helping out the members of this committee when your child support bill comes to the House floor.

Women's issues cannot be separated from the economy. Statistics starkly show that women have a lower economic status than men, and that the inequalities existing between men and women are manifested most painfully in money matters—less pay for women, discrimination against pregnant workers, unfair pension rules, lack of money to raise children.

Women in Congress grew concerned about the economic angst of the women in our country. We became aware that women's issues were no longer just the ERA and abortion. We discovered that the so-called "gender gap" is not sex-based; rather, women vote differently because of their economic status.

We grew concerned, and as members of the Congressional Caucus on Women's Issues, we did something about that concern. We looked at the areas where women make money. We looked at those areas where women need money to support themselves and their children. We looked at why women, and especially divorced women with children and older women, are often poor.

And we discovered faulty laws, unfair practices and years of tradition in the work place that keep women from economic equality. To combat that, the Economic Equity Act was born.

This legislative package, introduced in March, corrects inequities in the law that hurt the economic status of women—in private and public pensions, tax policy, childcare, child-support enforcement and insurance.

The act has specific remedies for specific problems. Instead of saying "help children," it toughens child-support enforcement. Instead of saying, "help those poor displaced homemakers," it provides tax credits for employers who hire them.

Chairman Rostenkowski. Thank you.

We will next hear from Olympia Snowe.

STATEMENT OF HON. OLYMPIA SNOWE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE, AND COCHAIR, CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

Ms. Snowe. As Republican cochair of the Congressional Caucus on Women's Issues, I want to thank you for holding these hearings.

This legislation has begun to receive the attention it deserves. I want to commend you for providing this critically important opportunity, Mr. Chairman, to not only examine the economic status of women in this country, but also to examine the important steps that need to be taken to remedy these injustices.

The Economic Equity Act of 1983 is a vitally needed, well-crafted package of legislation that would eliminate some primary inequities facing women in this country. The provisions of the act touch the lives of virtually every woman in this country through pension, child support enforcement, dependent care, insurance, and tax reform related matters.

Women's role in society has dramatically changed over the last 25 years, Mr. Chairman, and in many instances, women have been penalized by laws that fail to reflect these changes. Passage of this act will reform existing law to more realistically address where women are today. They are married with a job and they have children; they are single heads of households struggling to make ends meet; they are in midlife reentering the work force and at the same time having the responsibility of taking care of some elderly parent; or they are older and living alone, particularly reliant on social security benefits.

The Economic Equity Act contains five titles, each addressing an area in which women face economic discrimination.

Of primary importance to this hearing today, of course, are titles I and II concerning tax and retirement matters, as well as the issue of dependent care. The remaining areas covered by the act are nondiscrimination in insurance, child support enforcement, and regulatory reform. I understand my colleague, Geraldine Ferraro, will discuss the specifics of spousal IRA's because she has introduced separate legislation in the Congress.

But I would like to highlight the pension provisions, head of household tax reform, as well as, the provisions under title II concerning dependent care. It should come as no surprise to this committee that there are two groups of women suffering the most from discrimination. They are, of course, older women and single mothers. Although passage of the Economic Equity Act would probably benefit all women in this country, I would like to pay special attention to those women who benefit the most from this legislation.

For some time older women have represented the fastest growing poverty group in America; 81 percent of those elderly women not living with relatives live below the poverty level. Their lack of income security during retirement results from small pensions reflecting a lifetime of depressed wages. To a great extent their poverty is attributed to the fact that retirement policies fail to recognize the contribution women make in the home as well as their unique work cycles because of their child rearing and raising responsibilities.

The act contains a number of provisions that will remedy the pension inequities that women face, not only as widows, but as workers and as wives. Passage of the act will greatly enhance the right of a spouse to have survivor benefits. Under the existing law, in the case of a worker with a company for say 30 years who happens to die 2 days before his 55th birthday, his spouse can be denied benefits.

The Economic Equity Act would require that the spouse of a worker who has been with a company for 10 or more years' service would have the right to survivor benefits. The legislation would also modify pension laws to reflect the average work cycles of women in many ways but several of which I care to mention.

One is, of course, lowering the age of participation in a pension plan from 25 to 21, and by modifying the break-in-service rules and providing partial credit for maternity leave.

In short, Mr. Chairman, if we are to avert the rapid increase in the number of elderly women living below the poverty line, I think these changes are absolutely essential.

Women who maintain families also constitute an ever-increasing proportion of poor Americans. Tragically, 1 in 3 households headed by a woman lives in poverty, compared to 1 in 18 headed by a man.

Moreover, because of the rapid increase in female-headed households we find that more than 50 percent of the young people in this country can expect to live in a one-parent household for a significant part of their lives.

The Economic Equity Act would provide greatly needed assistance for these households, particularly by allowing the single head of household to have access to the same zero-bracket amount as a married couple who files jointly. As you know, Mr. Chairman, and members of the committee, the heads of household are entitled to $2,300 on their income tax return compared to a married couple filing jointly and their entitlement being $3,400.

Head of households incur the same fiduciary obligations as a married couple such as raising dependents, supporting a home, and yet they average half the income of a married couple. The act would also provide a tax credit for the over 4 million major displaced homeworkers in America who are attempting to reenter the work force. They spent many years at home raising their children, but because of their lack of work experience and marketable skills, it places them in an extreme employment disadvantage.

So the act would simply expand the targeted job tax credit under the Internal Revenue Code to include this group.

Mr. Chairman, our progress in guaranteeing greater financial security to women will be limited unless we also address the issue of dependent care. Women bear a disproportionate share of the burden in taking care of their dependents throughout their lives. Since 1976 the dependent care tax credit has been of great assistance to many families trying to meet their responsibilities in taking care of children, the elderly and disabled dependents.

The act would expand the sliding tax scale for the dependent care tax credit to 50 percent from the current 30 percent for those earning $10,000 or less. This legislation would also make the credit refundable to low-income families whose credit would exceed their tax liability.

As you know, the Senate approved refundability in 1981, but it was omitted in the House and Senate conference.

The expansion of the dependent care tax credit represents a cost-effective way of assisting our most vulnerable Americans. An estimated 67 million children under the age of 13, many preschoolers in fact, go without care for significant parts of the day because both parents or a single parent is working.

More than 1 in every 5 women is unemployed because they cannot make satisfactory child care arrangements. One in ten middle-aged women between 45 and 65 have the responsibility for an older relative.

Finally, Mr. Chairman, the drastic need for this legislation cannot be overstated. The passage of the act of course will not supplant the need for a constitutional guarantee of equality for women in this country. Rather, the two issues go hand in hand.

The causes of economic discrimination are numerous and complex and require a multifaceted approach as represented by the Economic Equity Act of 1983.

Women will only realize full measure and full breadth of economic and legal security in this country after strong actions are taken to provide this in the workplace. Affordability of day care is a prerequisite for economic equality for women, as well.

The passage of the Economic Equity Act of 1983 is a necessary step in the fight to eliminate all barriers to full equality for women. Again, Mr. Chairman, and members of the committee, I thank you for the ability to appear before you on this very important measure that hopefully will be considered in its entirety by this Congress.

[The prepared statement follows:]

STATEMENT OF HON. OLYMPIA J. SNOWE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE, AND COCHAIR, CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

Mr. Chairman, as the Republican Co-Chair of the Congressional Caucus on Women's Issues, I want to thank you for holding these hearings. The issue of economic equity for American women has finally begun to receive the attention it deserves, and I commend you for providing this critically important opportunity to examine both the economic status of women and some of the important steps that can be taken to remedy these injustices.

The Economic Equity Act of 1983 is a vitally needed and well-crafted package of legislation that will eliminate some of the primary inequities facing women. The provisions of the Act touch the lives of virtually every woman in this country through badly needed reforms in the area of pensions, tax policy, insurance, dependent care, and child support enforcement.

Women's role in society has changed dramatically over the last 25 years, and in many instances, women have been penalized by laws that fail to reflect these changes. Passage of the Economic Equity Act will reform existing law to more realistically address women where they are today—married, with a job and childen; as single heads of household struggling to make ends meet; in mid-life, reentering the workforce and perhaps caring for an elderly parent; or older and alone, living on only a small Social Security benefit.

The Economic Equity Act contains five titles, each addressing an area in which women face economic discrimination. Of primary importance to this hearing today are Titles I and II, which deal with tax and retirement matters and dependent care. The remaining areas covered by the Act are non-discrimination in insurance, regulatory reform, and child support enforcement. My colleague, Geraldine Ferraro, introduced separately the provisions dealing with private pension reform and spousal IRAs, and will discuss them specifically in her testimony. I would like to briefly highlight those provisions and address the displaced homemakers tax credit, head of household tax reform, and provisions under Title II dealing with dependent care.

It is no surprise that two groups of women, in particular, suffer the most from economic discrimination—older women and single mothers. Although passage of the Economic Equity Act will benefit all women, I would like to pay particular attention in my remarks, to the way in which this legislation will benefit these two groups of women.

For some time, older women have represented one of the fastest growing poverty groups in the country, with 81 percent of those not residing with relatives living below the poverty level. Their lack of income security during retirement results in part from small pensions that reflect a lifetime of depressed wages. To a larger extent, their poverty can be attributed to the failure of retirement income policies to recognize the economic value of the work women do in the home and the unique work cycles of women with children.

The Economic Equity Act contains a number of provisions that will help remedy the pension inequities women face as widows, workers, and wives. Passage of the Act will greatly enhance the right of spouses to claim a share of the deceased workers pension. Under current law, the widow of a man who has worked 30 years with the same company and dies two days before his 55th birthday, can be denied any survivor benefits. Private pension plans would be required under this legislation to pay survivor benefits if the deceased worker had at least ten years of service under a plan.

This legislation will also modify private pension law to reflect the average work cycles of women in several ways—by lowering the age of participation to 21, and by modifying the break-in-service rules to give partial pension credit for approved maternity and paternity leave. In short, Mr. Chairman, these changes will expand the opportunities for women to build retirement credits on their own. As I'm sure you will hear many times today, these changes are imperative if we are to avert the rapid increase of elderly women living below the poverty line.

Women who maintain families constitute an ever-increasing proportion of poor Americans. Tragically, one in three families headed by a woman lives in poverty, compared to one in 18 headed by a man. Moreover, because of the rapid increase in the number of female-headed families, 50 percent of all children can now expect to live in one parent homes for a significant part of their lives.

The EEA will provide desperately needed assistance to these women, by allowing single heads of household access to the same zero bracket amount on their federal income taxes as married couples filing jointly. Under current law, heads of household are entitled to a $2,300 zero bracket amount, while married couples are entitled to $3,400. Heads of household incur the same kinds of expenses such as supporting a dependent and maintaining a house as married couples, yet average half the income.

The EEA will also provide a tax credit for the over 4 million displaced homemakers in this country who are faced with entering or reentering the labor force after years at home with their families. Lack of recent work experience and marketplace skills place them at an extreme employment disadvantage. The Equity Act would simply expand the Targeted Jobs Tax Credit program to include this group.

Mr. Chairman, our progress in guaranteeing greater financial security to women will be limited unless we also address the issue of dependent care. Women bear a disproportionate share of the responsibility in caring for their dependents throughout their lives. Since 1976, the dependent care tax credit has helped many working families to better meet the care-giving needs of children and elderly and disabled dependents.

The Economic Equity Act would expand the current sliding scale for the dependent care tax credit to provide a more realistic level of support to working families in greatest need of this assistance. This legislation would also make the credit refundable for those lower income families whose tax credits exceed their tax liabilities. The Senate approved refundability for the tax credit in 1981, but it was dropped from the bill in the House-Senate conference.

These provisions of the dependent care tax credit represent a cost-effective way of assisting our most vulnerable Americans. An estimated 6 to 7 million children 13 years old and under, including many preschoolers, may go without care for significant parts of each day while parents work. More than one in every five women is unemployed because she is unable to make satisfactory child care arrangements. One in ten middle-aged women between 45 and 65 has responsibility for an older relative. Expansion of the dependent care tax credit will help families provide better care for their loved ones, without extracting a heavy toll on the members of our society least able to afford it.

Mr. Chairman, the drastic need for this legislation cannot be overstated. Passage of the Economic Equity Act will not, however, supplant the need for a constitutional guarantee of equality for women. Rather, the two go hand in hand. The causes of economic discrimination against women are numerous and complex, and will be eliminated only through a multi-faceted attack.

Women will not realize full measure of economic security until strong actions are taken to insure pay equity and equal opportunity in the workplace. The availability of affordable, quality day care remains a pre-requisite to economic equality for women, as well. Passage of the Economic Equity Act of 1983 is a necessary step in the fight to eliminate all barriers to full equality for women.

Thank you for this opportunity to appear before the Ways and Means Committee.

Chairman ROSTENKOWSKI. Thank you very much.

Next, we will hear from Norman Mineta.

STATEMENT OF HON. NORMAN Y. MINETA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MINETA. Thank you very much for this opportunity, Mr. Chairman, to testify before your full committee.

I would like to submit my full statement for the record and give an abbreviated statement.

To me the Economic Equity Act, H.R. 2090, is one of the most important pieces of legislation that will be considered in the 98th

Congress. I am proud to be a cosponsor of the act and a member of the Congressional Caucus for Women's Issues.

Since the equal rights amendment is not yet a part of our Constitution, it is necessary that we introduce and pass legislation which begins to give women the same economic benefits and protections that men receive. The Economic Equity Act does just that and should gain the support of those who have not endorsed the ERA.

Opponents of the equal rights amendment, including President Reagan, say Congress should amend and change the laws we already have on the books, rather than bringing forth a new law. Well, that is exactly what we are doing here today. The Economic Equity Act makes essential, progressive changes by amending existing legislation. Though it is my view that we need the equal rights amendment more than ever, we are making a start in the area of economic justice for women by considering the Economic Equity Act.

Certainly, economic justice is the right place to begin. The strength of our Nation lies in the economic well-being of its citizens. People must be employed. They must be comfortably sheltered, and able to get to and from their jobs. Parents must be able to provide their children with nutritious meals, and see that their young ones are properly educated.

For many Americans, these basic necessities of life are becoming harder to attain. Half the marriages in our country end in divorce, with shattered dreams and new economic hardship for our citizens. And, more often than not, those who suffer most are women.

But troublesome divorce settlements, delinquent alimony payments, and skimpy or even nonexistent child support payments are only part of the problem. Women who have been widowed often do not receive adequate financial security. And, women who are homemakers and who later choose to enter the wage-labor force are hindered by possessing so-called unmarketable skills, which preclude them from effectively supporting themselves and their families.

Whether a woman chooses a career as caretaker for husband and family, or as a paid member of the wage-labor force outside her home, she is short changed economically from her first effort. It is this basic wrong, this unequal treatment, that the Economic Equity Act addresses as it attempts to bring justice into a system with a history of injustice.

The basic premise of the act is that it recognizes marriage as an economic partnership. And that concept is crucial: Marriage as an economic partnership. Our laws should not designate the husband as sole breadwinner and financial decisionmaker. Legislation must reflect that the homemaker's contribution to a marriage is as valuable a part of this economic partnership as the spouse who works outside the home. Yet as it stands now, when a marriage ends by either divorce or death, the woman involved often finds that deprivation, and not security, is her reward for a career as a homemaker.

Even with a return to economic prosperity in the United States, it is necessary that we enact the laws embodied in the Economic Equity Act, and especially the amendments dealing with taxation and pension plans that will be addressed today. These are strong first steps toward the goal of financial security for all Americans. This is the security on which our country must be based.

Thank you.

Chairman ROSTENKOWSKI. Thank you.

Our next witness is Larry Coughlin.

STATEMENT OF HON. LAWRENCE COUGHLIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. COUGHLIN. Thank you for this opportunity to testify, Mr. Chairman.

I have a prepared statement which I would ask be submitted for the record and let me summarize briefly.

As has been pointed out in many areas, Federal laws have not kept pace with the significant economic and social changes affecting the lives of millions of women. Specifically, with respect to pension rules, tax policy, dependent care, and job opportunities, Federal laws either do not recognize the important role of women at home or on the job, do not sufficiently guarantee women's right to economic security, or do not adequately protect women from potential hardship owing to their roles as wives and mothers.

H.R. 2100, which has been introduced by Congresswoman Geraldine Ferraro and which I am cosponsoring, would correct these shortcomings and afford women the pension protections to which they are entitled. This legislation would require payment of a survivor annuity to a spouse of a fully vested worker even if the worker dies before the annuity starting date. It would require the written consent of both a pension plan participant and his spouse in order to waive a survivor annuity option.

It would lower the minimum age for pension plan participation from 25 to 21 years to allow credit for the work many women perform before marriage. It would provide for giving a limited retirement credit for maternity, or paternity, leave at the rate of 20 hours of service per week of approved leave. It would also eliminate the provisions of the Employee Retirement Income Security Act that allow pension plans to deny a spouse benefits if an otherwise qualified plan participant dies within 2 years of choosing the survivor benefit option.

H.R. 2468, introduced by Representative Douglas Bereuter, would eliminate the unfairness of disqualifying a homemaker who earns a very small income from participating in a spousal IRA under present law. H.R. 2468 provides that spouses receiving less than $250 in compensation would remain eligible for spousal IRA's. While this measure is useful in correcting a deficiency in the existing law, it does not address the more fundamental issue of full IRA availability to homemakers.

H.R. 765, introduced by Representative Hal Daub, would allow homemakers to compute the amount of their IRA deduction on the basis of the earned income of the employed spouse, and it would raise the maximum deduction for IRA contributions to $2,500 a year. I strongly urge the committee to approve legislation establishing homemaker IRA's.

Women continue to shoulder primary responsibility for the care of dependents whether they be children, grandchildren, disabled family members, elderly parents, or other relatives. Most women work outside the home out of economic necessity, and the availability of quality, affordable dependent care services is therefore essential if they are to enter and remain in the work force.

With the rapid increase in families headed by women, the need for dependent care has grown. In 1982 half of all mothers with preschool children held jobs. In the 5 years between 1980 and 1985, it is estimated that the number of preschool age children needing day care will double from 6 million to about 12 million. Moreover, as our population continues to age, the number of elderly dependents in need of daytime care will continue to grow.

Congress has in recent years recognized the importance of work-related dependent care by enacting an income tax credit based on a sliding scale starting at 30 percent of expenditures for low-income individuals and falling to 20 percent for incomes over $28,000. I urge the committee to increase the tax credit to 50 percent of work-related dependent care expenses for incomes below $10,000.

I would recommend that the amount of the credit then be reduced by 1 percent for every $1,000 in income above $10,000 up to $40,000 when the credit would level off at 20 percent of day care expenses. This proposal has been introduced as H.R. 1991 by your committee's ranking minority member, Mr. Conable. I am pleased to join him in cosponsoring this legislation.

For income tax purposes, heads of households are treated differently from married couples. The standard deduction or zero-bracket amount as it is now called for heads of households is set at $2,300, the figure for single individuals, while the zero-bracket amount for married couples is set at a higher level, $3,400. In view of the fact that heads of households—two-thirds of whom are women—are the sole breadwinners for their families while over 50 percent of married couples have two incomes, the disparity in zero-bracket amounts constitutes a tax penalty against large numbers of women.

The problem is exacerbated by the fact that households maintained by single women generally have much lower incomes than those where married couples are present. The Federal Tax Code should be corrected to eliminate this unfair tax burden on single women coping with family responsibilities and expenses. I am pleased to cosponsor H.R. 2126, introduced by Representative Barbara Kennelly, which would increase the zero-bracket amount for heads of households from $2,300 to $3,400, the same as for joint returns, and would adjust succeeding bracket amounts in the rate schedule by the same $1,100. I urge the committee to enact this change.

H.R. 2127, introduced by Representative Kennelly with my cosponsorship, would provide some much-needed help for displaced homemakers. It would give employers an incentive to hire these women by adding displaced homemakers to the list of eligible hirees under the targeted jobs credit program. Employers would then be able to receive up to a $3,000 tax credit in the first year for hiring a displaced homemaker and $1,500 in the second year. I urge your committee to approve H.R. 2127.

Mr. Chairman, in closing, I do want to reiterate the point that Federal laws that deny women retirement security in the form of their spouse's pensions or their own IRA's, that impede their economic independence through inadequate day care assistance, that burden them with an unfair share of taxes as single parents, and that exclude displaced homemakers from hiring incentive programs, must be recognized as the serious forms of economic discrimination they are. Congress must demonstrate greater sensitivity to these issues by enacting the corrective legislation I have outlined in my testimony.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF HON. LAWRENCE COUGHLIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I congratulate you for calling these hearings on issues affecting economic equity for women, and I appreciate having this opportunity to address a few comments to the committee.

Over the past several decades the economic status of women, their role in our economy, and the problems they face have changed dramatically. In 1950 women made up about one-third of the labor force. Today the figure has risen to over half. The number of women working outside the home is expected io increase 60 percent from 1970 to 1985 compared with less than a 20 percent increase for working men over the same period. The number of family households maintained by a woman without a husband present increased by 65 percent between 1970 and 1981, and it is estimated that today one-quarter of all families are headed by women. And those women who have chosen careers as homemakers are more likely than ever before to enter the workforce at some point due to separation, divorce, or the disability or death of a spouse.

In many areas, federal laws have not kept pace with the significant economic and social changes affecting the lives of millions of women. Specifically, with respect to pension rules, tax policy, dependent care, and job opportunities, federal laws either do not recognize the important role of women at home or on the job, do not sufficiently guarantee women's right to economic security, or do not adequately protect women from potential hardship owing to their roles as wives and mothers.

Let me say at the outset that, as a longtime supporter and sponsor of the Equal Rights Amendment to the Constitution, I believe the single most effective step Congress can take to ensure economic equity for women is to ratify the ERA. At the same time, Congress must not wait for the lengthy amendment process to conclude before moving to correct those specific laws that presently discriminate against women.

I am a sponsor of many of the proposals included in the Economic Equity Act package of reforms, and I would like to comment briefly on four specific issues which fall within the scope of these hearings.

RETIREMENT AND PENSION POLICY

Federal laws governing pensions are stacked against women whether they work in the home or outside. It should not be too surprising, then, that older women constitute the fastest growing poverty group in our nation.

Although both spouses contribute to a worker's ability to earn wages and pension benefits, homemakers are shortchanged in several specific ways. For example, homemakers are unable to establish individual retirement accounts on their own; they may do so only if their spouses have an IRA and the combined annual contribution for both spouses is limited to $2,250. Homemakers earning even a small amount of money doing temporary or part-time work are disqualified from participating in a spousal IRA and, while they are then eligible to establish their own IRA's, contributions are limited to only the amount of their small earnings.

Furthermore, many homemakers never receive a spouse's survivor pension benefits for a variety of reasons: the plan participant died before the annuity started, he elected a survivor benefit plan within two years before his death, he never chose a survivor benefit plan or he waived the survivor benefit after electing it. Any one of these circumstances can spell financial catastrophe for a homemaker.

Even women who work outside the home, because their employment patterns often revolve around childbearing and other family responsibilities, are placed at a distinct disadvantage in providing for their retirement. Typically they work at several jobs separated by years at home and as a consequence they face obstacles to becoming vested in a pension plan not encountered by most men. As a result, more than half the working women today are not covered by a private pension plan. When they are, they are likely to earn smaller benefits based on their lower-paying jobs. In 1982 the median income for women was $8,197 compared with $15,858 for men.

H.R. 2100, which has been introduced by Congresswoman Geraldine Ferraro and which I am cosponsoring, would correct these shortcomings and afford women the pension protections to which they are entitled. This legislation would require payment of a survivor annuity to a spouse of a fully vested worker even if the worker dies before the annuity starting date. It would require the written consent of both a pension plan participant and his spouse in order to waive a survivor annuity option. It would lower the minimum age for pension plan participation from 25 to 21 to allow credit for the work many women perform before marriage. It would provide for giving a limited retirement credit for maternity (or paternity) leave at the rate of 20 hours of service per week of approved leave. It would also eliminate the provisions of the Employee Retirement Income Security Act that allow pension plans to deny a spouse benefits if an otherwise qualified plan participant dies within two years of choosing the survivor benefit option.

Two other bills I am cosponsoring would eliminate the built-in bias against most women in terms of their access to individual retirement accounts, the mechanism chosen by Congress in recent years to encourage a large number of Americans to provide their own retirement savings.

H.R. 2468, introduced by Representative Douglas Bereuter, would eliminate the unfairness of disqualifying a homemaker who earns a very small income from participating in a spousal IRA under present law. H.R. 2468 provides that spouses receiving less than $250 in compensation would remain eligible for spousal IRA's. While this measure is useful in correcting a deficiency in the existing law, it does not address the more fundamental issue of full IRA the availability to homemakers.

Denial of IRA's to homemakers is a major oversight in the present law. It denigrates the importance of their economic contribution to the family since homemakers frequently make it possible for the breadwinner spouse to work outside the home. As I have for many years, I am again cosponsoring legislation to correct this inequity by permitting homemakers to establish their own individual retirement accounts. H.R. 765, introduced by Representative Hal Daub, would allow homemakers to compute the amount of their IRA deduction on the basis of the earned income of the employed spouse, and it would raise the maximum deduction for IRA contributions to $2,500 a year. I strongly urge the committee to approve legislation establishing homemaker IRA's.

DEPENDENT CARE

Women continue to shoulder primary responsibility for the care of dependents whether they be children, grandchildren, disabled members, elderly parents or other relatives. Most women work outside the home out of economic necessity, and the availability of quality, affordable dependent care services is therefore essential if they are to enter and remain in the workforce.

With the rapid increase in families headed by women, the need for dependent care has grown. In 1982 half of all mothers with pre-school children held jobs. In the five years between 1980 and 1985, it is estimated that the number of pre-school children needing day care will double from six million to about 12 million. Moreover, as our population continues to age, the number of elderly dependents in need of daytime care will continue to grow.

Congress has in recent years recognized the importance of work-related dependent care by enacting an income tax credit based on a sliding scale starting at 30 percent of expenditures for low-income individuals and falling to 20 percent for incomes over $28,000. I urge the committee to increase the tax credit to 50 percent of work-related dependent care expense for incomes below $10,000. I would recommend that the amount of the credit then be reduced by one percent for evey $1,000 in income above $10,000 up to $40,000 when the credit would level off at 20 percent of day care expenses. This proposal has been introduced as H.R. 1991 by your committee's ranking minority member Mr. Conable. I am pleased to join him in cosponsoring this legislation.

HEADS OF HOUSEHOLDS

As I pointed out in my opening remarks, the number of families maintained by single women has increased sharply. Today the number of households headed by single women is estimated to be one-quarter of all households.

For income tax purposes, heads of households are treated differently from married couples. The standard deduction or zero bracket amount as it is now called for heads of households is set at $2,300, the figure for single individuals, while the zero bracket amount for married couples is set at a higher level, $3,400. In view of the fact that heads of households—two-thirds of whom are women—are the sole breadwinners for their families while over fifty percent of married couples have two incomes, the disparity in zero bracket amounts constitutes a tax penalty against large numbers of women. The problem is exacerbated by the fact that households maintained by single women generally have much lower incomes than those where married couples are present. The federal tax code should be corrected to eliminate this unfair tax burden on single women coping with family responsibilities and expenses. I am pleased to cosponsor H.R. 2126, introduced by Representative Barbara Kennelly, which would increase the zero bracket amount for heads of households from $2,300 to $3,400, the same as for joint returns, and would adjust succeeding bracket amounts in the rate schedule by the same $1,100. I urge the committee to enact this change.

JOBS FOR DISPLACED HOMEMAKERS

Displaced homemakers are those women who have spent most of their adult lives caring for their families but who, through separation, divorce, the death or disability of a spouse, have lost their source of economic support. Consequently, they are forced to enter the job market with few, if any, marketable skills, They face enormous obstacles, among them an already highly competitive job market and the reluctance of employers to credit their homemaking and volunteer experience. The frustrating search for a job that will allow them to remain economically self-sustaining is, for many of these women, compounded by the lack of aforable day care for their dependents. It is estimated that as many as 3.3 million women currently fall within the "displaced homemaker" category.

H.R. 2127, introduced by Representative Kennelly with my cosponsorship, would provide some much-needed help for displaced homemakers. It would give employers an incentive to hire these women by adding displaced homemakers to the list of eligible hirees under the targeted jobs credit program. Employers would then be able to receive up to a $3,000 tax credit in the first year for hiring a displaced homemaker and $1,500 in the second year. I urge your committee to approve H.R. 2127.

Mr. Chairman, I know you have many withnesses to be heard on the important issues of economic equity for women and so I will not take up any more time. There are many more issues which are appropriately women's economic equity issues which I have not discussed because they are not the focus of your hearings today—equal pay and child support enforcement principal among them. I hope, however, that the Congress will also move to strengthen federal laws in these areas of critical importance to women.

In closing, I do want to reiterate the point that federal laws that deny women retirement security in the form of their spouse's pensions or their own IRA's, that impede their economic imdependence through inadequate day care assistance, that burden them with an unfair share of taxes as single parents, and that exclude displaced homemakers from hiring incentive programs, must be recognized as the serious forms of economic discrimination they are. Congress must demonstrate greater sensitivity to these issues by enacting the corrective legislation I have outlined in my testimony. Thank you, Mr. Chairman.

Chairman **Rostenkowski**. Next, we will hear from Geraldine Ferraro.

STATEMENT OF HON. GERALDINE A. FERRARO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. **Ferraro**. Thank you, Mr. Chairman.

I want to commend you for holding this hearing and I want to express my appreciation to you and to Congresswoman Barbara Kennelly for bringing this legislation to the attention of the committee. I hope you can recommend passage of this legislation to improve the economic condition of women in America.

The committee will be hearing today about a whole range of women's economic problems. These problems follow women into old age, making their retirement years a time of increased poverty, not a golden age of financial security. I am here today to discuss the two sections of the Equity Act I am sponsoring. I am delighted to see that in today's Washington Post there is an AP report indicating that President Reagan will support several pieces of the bill, including the IRA section which I will be discussing this morning.

The spousal IRA and private pension reform sections of title I of the Equity Act are the ones I will focus on. I will also say a few words about the dependent care and earned income tax credits which are both part of the children's survival bill which I have also introduced.

My proposed private pension reforms would require private pension systems to recognize the contribution women make to our economy and to take into account women's unique work patterns—patterns which revolve around childrearing and other family responsibilities.

In 1981, just 10.5 percent of women aged 65 and over were receiving private pension benefits. These benefits averaged $2,427 a year. By comparison, 27.7 percent of men in that age group had pensions averaging $4,152 a year.

Clearly, there is much room for improvement in the pensions of both men and women, but the situation for women is worse. This legislation does not claim to be a solution to the problem of retirement security for people who have worked in the private sector. It is not a new ERISA. But it is, I believe, a good start toward greater fairness.

The fundamental goal of my legislation is to require plans to provide benefits to surviving spouses in most cases, closing loopholes which now prevent many widows and divorced women from receiving pension benefits.

A crucial provision requires payment of a survivor benefit to a spouse even if the vested worker dies before early retirement age. In the course of my 2½ years of involvement with pension issues, I have heard countless stories of widows left without pensions because their husbands die "at the wrong time"—after 10, 20, or 30 years of work.

Under my legislation, the widow would not collect these survivor benefits until the date her husband would have reached early retirement age—usually age 55—and, since most plans pay a reduced benefit to survivors, I do not believe this extra protection for the spouses of workers would be excessively costly to private plans.

My legislation also aims to enhance the ability of women to earn pensions in their own right by lowering the age of participation in pension plans, and by making maternity and paternity leave provisions more generous, as they affect pension eligibility.

The other Equity Act section I would like to discuss briefly is the section which expands homemakers' access to individual retirement accounts. IRA's are becoming an increasingly important piece in the retirement income puzzle. Yet a full- or part-time homemaker's access to IRA's is extremely limited.

This section of the act would permit each spouse to deposit up to $2,000 a year in an IRA, as long as at least one of the spouses earned at least $2,000 that year. And it would define alimony payments as earnings for the purpose of opening and maintaining an IRA.

An IRA proposal by Representative Henson Moore of this committee has been favorably considered by this committee. His bill, as I understand it, would allow each wage earner who has already contributed up to his or her tax deductible IRA ceiling to then elect to make an additional $1,750 nontax deductible contribution to the IRA. Only the interest on this additional contribution would be tax deferred.

It has been suggested that Representative Moore's proposal might accomplish what mine seeks to do. This is not the case.

In fact, Representative Moore's bill would widen the gap between the IRA contributions allowed to two-earner and one-earner couples because it would not recognize the homemaker's right to an IRA account equal to her husband's.

Under Representative Moore's bill, each earner in a two-earner couple could deposit $3,750 in an IRA—$2,000 tax deductible and $1,750 nontax deductible—for a total of $7,500. By contrast, a one-earner couple could still only contribute $2,250 tax deductible to their spousal IRA plus only one additional $1,750 nontax deductible contribution, for a total of $4,000.

Mr. Chairman, I have just a few more lines with respect to IRA's and the children's survival bill. I would ask it be made a part of the record in view of the fact we have a vote on the floor.

I would be happy to answer any questions.

[The prepared statement follows:]

STATEMENT OF HON. GERALDINE A. FERRARO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I want to begin by thanking you for holding this important hearing. I appreciate your leadership in bringing the Economic Equity Act to the attention of this committee, and I hope in the near future you and the members of this committee will be able to recommend passage of this comprehensive package of legislation to improve the economic condition of women in America.

This Committee will be hearing testimony today about the range of women's economic problems. These problems follow women into old age, making their retirement years a time of increased poverty, not a golden age of financial security.

I am here today to discuss the two sections of the Equity Act which I am sponsoring. These are the Spousal IRA and the Private Pension Reform sections of Title I of the Equity Act. I will also say a few words about the dependent care and earned income tax credits, which are both part of the Children's Survival Bill, which I have also introduced.

My proposed private pension reforms would require private pension systems to recognize the contribution women make to our economy and to take into account women's unique work patterns—patterns which revolve around child-rearing and other family responsibilities.

In 1981, just 10.5 percent of women aged 65 and over were receiving private pension benefits. These benefits averaged $2,427 a year. By comparison, 27.7 percent of men in that age group had pensions averaging $4,152 a year.

Clearly, there is much room for improvement in the pensions of both men and women, but the situation for women is worse. This legislation does not claim to be a solution to the problem of retirement security for people who have worked in the private sector. It is not a new ERISA. But it is, I believe, a good start toward greater fairness.

The fundamental goal of my legislation is to require plans to provide benefits to surviving spouses in most cases, closing loopholes which now prevent many widows and divorced women from receiving pension benefits.

A crucial provision requires payment of a survivor benefit to spouse even if the vested worker dies before early retirement age. In the course of my two-and-a-half years of involvement with pension issues, I have heard countless stories of widows left without pensions because their husbands die "at the wrong time" after 10, 20 or 30 years of work.

Under my legislation, the widow would not collect these survivor benefits until the date her husband would have reached early retirement age—usually age 55. And, since most plans pay a reduced benefit to survivors, I do not believe this extra protection for the spouses of workers would be excessively costly to private plans.

My legislation also aims to enhance the ability of women to earn pensions in their own right by lowering the age of participation in pension plans and by making maternity and paternity leave provisions more generous, as they affect pension eligibility.

The other Equity Act section I would like to discuss briefly is the section which expands homemakers' access to Individual Retirement Accounts. IRAs are becoming an increasingly important piece in the retirement income puzzle. Yet a full- or part-time homemaker's access to IRAs is extremely limited.

This section of the Act would permit each spouse to deposit up to $2,000 a year in an IRA, as long as at least one of the spouses earned at least $2,000 that year. And it would define alimony payments as earnings for the purpose of opening and maintaining an IRA.

An IRA proposal by Rep. Henson Moore has been favorably considered by this committee. His bill, as I understand it, would allow each wage earner who has already contributed up to his or her tax-deductible IRA ceiling to then elect to make an additional $1,750 non-tax deductible contribution to the IRA. Only the interest on this additional contribution would be tax-deferred.

It has been suggested that Rep. Moore's proposal might accomplish what mine seeks to do. This is not the case.

In fact, Rep. Moore's bill would widen the gap between the IRA contributions allowed to 2-earner and 1-earner couples because it would not recognize the homemaker's right to an IRA account equal to her husband's.

Under Rep. Moore's bill, each earner in a two-earner couple could deposit $3,750 in an IRA—$2,000 tax deductible and $1,750 non-tax-deductible—for a total of $7,500. By contrast, a one-earner couple could still only contribute $2,250 tax-deductible to their spousal IRA plus only one additional $1,750 non-tax-deductible contribution, for a total of $4,000.

The purpose of IRAs is to give Americans a source of retirement income other than Social Security. I believe homemakers should have equal access to this opportunity. Nor should we penalize a homemaker who earns a very tiny amount of money one year by denying her full access to an IRA.

The Children's Survival Bill contains two provisions which this committee is considering today. The dependent care tax credit and the earned income tax credit would both benefit millions of poor children and their families.

My proposal makes the child care tax credit refundable and increases the credit for the lowest income families from 30 to 50 percent. Right now, families with incomes too low to pay taxes get no help with their child care expenses.

This legislation also proposes changes in the earned income tax credit to provide a $50 credit for each dependent child and an additional $50 for each child under age six. The EITC currently does not reflect the number of children in a family, meaning a poor working mother with four children receives the same credit as the mother of one. The proposal also repeals the requirement that the earned income credit be counted as income in determining AFDC grants. It makes no sense to punish poor people for working by reducing their aid.

Mr. Chairman, and members of the Committee, I again want to thank you for holding these hearings and giving me this opportunity to testify. I would be happy to answer any questions you may have.

Chairman **Rostenkowski**. Thank you very much.

The Chair calls another of our colleagues, Tom Corcoran.

STATEMENT OF HON. TOM CORCORAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. **Corcoran**. Thank you, Mr. Chairman.

Let me commend you and your colleagues for conducting this hearing on the legislation before us. I have a prepared statement I would make a part of the record.

Let me summarize essentially what my purpose in appearing here is.

My purpose is not to address the entire picture but rather economic equality at the time of retirement. In order to do that I introduced on June 9—which happens to be, Mr. Chairman, my wedding anniversary—legislation which affects IRA's. I will not go into the background of them; you know that better than I, but what we try to do in our legislation is to expand IRA's by increasing the limit from $2,000 to $5,000 over a 3-year period, incrementally increasing the limit by $1,000 in 1984 through 1986.

The second thing we do is enable spouses to use joint gross income to determine how much they can contribute to their IRA rather than as in current law using just one's own income.

I would hope, Mr. Chairman, particularly in view of the announcement yesterday that the President is backing legislation which is very close to what I proposed in H.R. 3266, that perhaps this year or in the second session of this Congress, we might be able to expand the IRA program.

[The prepared statement follows:]

STATEMENT OF HON. TOM CORCORAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman and members of the committee, I commend you for holding these hearings to consider the issue of economic equality before the law. I would like to address my remarks to the question of economic equality in retirement.

On June 9, I introduced the Economic Growth and Retirement Security Act, H.R. 3266, which now has fourteen cosponsors. This legislation would increase the amount of tax-deferred income individuals can invest in Individual Retirement Accounts (IRA's) from $2000 to $5000 over the next three years, at a rate of $1000 per year. It also modifies the method by which IRA contributions are determined. In effect, my bill combines spousal income to establish the total amount available for investment in individual retirement accounts and enables the partners in a marriage to draw on this joint income to establish their IRA's. The lesser earning spouse or non-wage earner can use the gross income of the primary wage earner to fund an IRA, to the extent that the primary wage earner does not contribute all of his or her gross income to an IRA. For example, if the primary wage earner had gross income of $15,000 and the other spouse had no income, the primary wage earner could, in 1984, contribute $3,000 to an IRA. This leaves $12,000 in uncontributed gross income which the non-wage earning spouse could draw on to contribute $3,000 to an IRA.

It is grossly unfair to require that each spouse provide his or her own income for a retirement account. The reality that the majority of poverty-stricken senior citizens are women reflects all too painfully the fact that our laws rely on individually earned income as the basis for establishing individual retirement income accounts. This totally neglects the social facts that women generally earn less than men and that many women work at home, for no pay whatsoever, raising the children of our nation. In return for a lifetime of work, we deny these people retirement security—a sad tribute to the marriage relationship and the unique contributions of both partners.

Many of our laws recognize the joint commitment of marriage—joint income tax rates, joint credit, joint home ownership—and anyone who is or has been married understands how fully marriage requires sharing. But we have totally failed to acknowledge this symbiosis in our laws governing retirement income. A crucial step in rectifying this slap at the institution of marriage is the acceptance of joint income as the determinant of how much money spouses can contribute to IRA's.

In addition to speaking for the concept of joint income, I urge the Committee to expand the limits on IRA's to provide more adequate retirement income for all citizens. I have been unable to obtain an estimate of the revenue loss associated with such a change, but the tax on income invested in IRA's is deferred, not foregone, and the revenue loss must be small in the long run. It cannot be large enough to outweigh the benefit of providing secure, independent retirement to our senior citizens.

Finally, expansion of IRA dollar limits and extension of the full allowance to lesser earning and non-wage earning spouses would have the advantage of greatly increasing the capital supply, allowing for greater economic growth and lower interest rates.

In the interests of justice, I strongly urge my colleagues to include IRA's for lesser earning and non-wage earning spouses in any legislation that may result from these hearings.

Chairman ROSTENKOWSKI. Thank you very much.

Are there any questions? If not, thank you.

The Chair calls the Honorable Hal Daub. Welcome to the committee, Mr. Daub. If you would like to proceed with your statement, the committee is ready to receive it.

STATEMENT OF HON. HAL DAUB, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. DAUB. In the interest of time, may I offer my complete written statement?

Chairman ROSTENKOWSKI. Your entire statement will be included in the record. However, you may summarize, if you wish.

Mr. DAUB. I will do that and answer any questions you may have.

I introduced one of the earlier spousal IRA pieces of legislation in the House referred to, and I thank the chairman of the committee for allowing the testimony with reference to H.R. 765.

A companion bill, H.R. 3333, simply addresses the matter of the amount. It was gratifying this morning—and I would like to be included with my statement the article from the Washington Post relative to the President's announcement of his support, which indeed I point out evidently includes the issue of whether alimony can or cannot be utilized with respect to the calculation of the contributed amount.

I find it the usefulness of the spousal IRA's expansion to serve two purposes. First, Mr. Chairman, it indeed corrects what I consider to be discrimination with respect to women. When in all other respects we treat work in a conventional way with quarters of earnings for social security and a W-2, that a person who chooses to stay at home indeed cooking, washing, ironing, frugally managing household accounts is not treated in that same conventional way.

So indeed for that aspect of our opportunity to encourage thrift in savings, I think that the expansion of the spousal IRA in the way that my bill and other similar bills encourage is appropriate.

Second, if you asked me what I might consider to be the toughest problem that our economy faces generally, I would tell you that it would be the lack of long-term money for purposes of borrowing at stable rates. When you can give this kind of encouragement to the savings base that amounts to leaving money in at a long-term commitment, then indeed you are I think going to go a long way toward stimulating economic stability in our country.

For those reasons, I urge the committee as it further deliberates the issue to consider the matter of the tax deductibility of the additional contribution.

I want to commend the committee for its step in the right direction which we will debate later this week, and that is the allowance of an additional $1,750 for the spousal IRA. Although it will be sheltered and the income from it deferred, that additional contribution will not be tax deductible. I think that is my stake, Mr. Chairman. I would hope in the next year or so we can take a look at the opportunity to make that additional contribution tax deductible.

It will not serve a useful purpose to achieve the growth in the savings base with those with a spousal IRA or an IRA who will find themselves already having made a sacrifice for the first part of the contribution and when one is given the choice of spending or saving, the tax deductibility will cycle through the economy and I believe will expand that savings base if they are given that additional incentive.

Thank you.

[The prepared statement follows:]

STATEMENT OF HON. HAL DAUB, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

I welcome this opportunity to appear here this morning and commend the Committee for having these hearings and bringing to public attention the effect of current law on the retirement prospects of women.

I am the sponsor of legislation, H.R. 765 and H.R. 3333, that would allow spouses who do not work outside the home to fund an Individual Retirement Account in their own names at the same level as if they were employed for wages or salary. Under current law, the only way a housewife may participate is if she and her husband divide $2,250 in a so-called Spousal IRA.

My position is—and the position of the 70 Members of the House who have cosponsored this legislation—is that work is no less valuable or less requiring of retirement planning because it is done predominantly by women.

The law regarding Individual Retirement Accounts is not the only way in which we discriminate against women in the pension process. Company pension plans and Social Security are based upon participation in the paid work force and leave many women dependent on their husband's benefits. In some cases, survivor benefits are foregone in favor of higher current benefits.

The facts in this situation make clear the case that women badly need encouragement to provide for their own retirement years. Only 17 percent of women receive any pension income. The median annual income for women over the age of 65 is $4,750 while for men it is $8,173.

Among the elderly, women make up 75 percent of those classified as poor although they only represent 59 percent of that group. When one considers that two-thirds of all women over 65 are unmarried compared with 25 percent of men, we have a situation where the obvious emphasis ought to be on reforms that will bring greater equity to the current system.

I am fully aware that this Committee has been hesitant in the past to provide pension incentives for the unpaid workforce. In this regard, I would direct your attention to a point made by Shirley Sandage, Executive Director of the Older Women's League, "While our pension system focuses on retirement benefits for the working spouse, it's usually the non-working spouse who lives longer."

By expanding IRA incentives to the unpaid housewife, we would be acknowledging that her full-time work has at least the same value as that of an individual who earns $2,000 yearly working part-time. This current discrimination ignores need, it ignores value, and clearly puts this Congress on record in opposition to the most obvious reform necessary to improve the lot of women in this country.

Our legislation is supported by the most conservative and the most liberal Members of the House. There is no question but the legislation is needed. But I recognize that there are justified concerns with the cost and just whether or not this is the most effective way to reach the problem.

Some critics would say that IRA's are only of benefit to those who can afford to save for their retirements, that for the person who has no extra money at the end of the year an incentive savings plan is of little use.

The first point I want to make is that with IRA incentives, more people can afford to save. People who would not do so otherwise have begun to save because for once, there is a real advantage in saving and a liklihood that inflation will not erode the corpus. Recent history has made clear that full Social Security benefits may not always be available for all. The 1983 change providing for inclusion for tax calculation purposes one-half of social security benefits above an income threshold will affect one-half of all Americans by 1990 even if Congress does not reduce the threshold.

There is no question but that the federal government cannot provide retirement security to the majority of Americans unless it elects to begin a redistribution scheme from the employed to the retired that I do not think any of us are ready for. We need to make it possible for those who can and might provide for their retirements do so and allow the federal government to target its resources toward the needy and lower-income groups.

There has been some concern over the potential loss to the Treasury as a result of increased IRA deductions. This concern has resulted in the recent amendment to the law that is contained in H.R. 4170. Increased contributions to IRA's will be allowed but they will not be deductible.

This is a misplaced fear as far as I am concerned. First of all, we are not dealing with an ordinary deduction that results in a permanent loss to the Treasury and is diverted to immediate consumption. We are talking about savings that are diverted to long-term investment—the kind of investment that provides money for home mortgages, car loans and capital for expansion. We are talking about the most productive kind of savings.

Secondly, although the money is tax-deductible when it is contributed to the acount, it is taxable when it is withdrawn. This is a point that appears to be lost on some but it should be mentioned when the revenue implications are considered.

In conclusion, I want to make the point that this is positive legislation. It undoes a discriminatory wrong done to women, it enhances the ability of our country to provide for the poor among our elderly more ably; it allows individuals to more successfully plan for their retirements; it will divert money to long-term investment of a type that creates jobs.

We need to make this change in the law. Whether or not we accept it today—I am certain that it will be part of the law sometime soon as equity and progress will demand it. Again, I appreciate this opportunity and am prepared to entertain any questions the Members might wish to ask.

Chairman ROSTENKOWSKI. Thank you.

Next, we will hear from another of our colleagues, Tom Lewis.

STATEMENT OF HON. TOM LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. LEWIS. Mr. Chairman, thank you.

Do you want me to continue, or do you want to break for the vote?

Chairman ROSTENKOWSKI. We will be notified when we have 4 minutes left. Why don't you proceed with your testimony, and we can come back if you don't finish.

Mr. LEWIS. Thank you, Mr. Chairman.

In the interest of time, I will ask that the committee accept my statement for the record.

Chairman ROSTENKOWSKI. Your statement will be included in the record.

Mr. LEWIS. I want to commend the chairman and the committee for hearing the summaries and the testimony by the Members on the equity parity for women, Mr. Chairman. My bill, H.R. 3554, the Women's Economic Parity Act, makes key changes in the Employment Retirement Income Security Act [ERISA]. It provides for automatic and joint survivor benefits; it lowers the minimum participation age for private pension reform plans from age 25 to 21; and it requires counting years of service after age 21 for vesting purposes. It uniquely defines the roles of the court and plan administrator in the alienation of pension benefits in divorce cases. This provision outlines in detail the duties of the plan administrator when complications, such as multiple divorces, occur. My bill provides pension credit for women who are absent from work due to company-approved maternity leave. Ninety percent of all pension plans in the United States have fewer than 100 participants. Compared to pension plans for large corporations, these small companies' plans have greater difficulty absorbing the hardship of an employee's extended leave of absence.

Therefore, my bill allows women to accrue up to 20 hours of pension credit per week for up to 3 months. However, ERISA requires that an employee accrue a minimum of 500 hours per year to avoid a break in service. Although my bill provides 240 hours credit for maternity leave, out of the remaining 1,700 hours in a work year, an employee can return to work and fulfill the required number of hours necessary to avoid a break in service. This provision will encourage employees to return to the workplace.

Mr. Chairman, with respect to correcting current inequities in our tax laws, my bill allows for separate individual retirement accounts for the nonworking spouse. The current spousal IRA bonus of $250 is clearly inadequate. I believe it is important for a housewife to have her own account, separate from her husband's account. Therefore, my bill proposes to repeal the "earned income" limitation and encourage the nonworking spouse to establish a separate account with whatever funds are at her disposal and take up to the full $2,000 deduction.

Employers can take a 2-year tax credit if they hire a displaced homemaker. I define a displaced homemaker as a woman who has been providing unpaid services in the home for a substantial number of years and has lost her sole source of support through separation, divorce, abandonment, or death of her spouse. We estimate that there are approximately 3 million displaced homemakers in America. The purpose is to provide an avenue whereby this woman who may be 30, 40, or older who has never before handled the family finances, and who is raising several small children, can find employment.

A child care tax credit for women who perform substantial volunteer services is included. Current law allows mothers who earn a salary to take a tax credit for child care expenses, but mothers who don't work at a paid job but who work as volunteers cannot. By not providing a child care credit for regular volunteers, we fail to recognize the enormous and invaluable contribution these women make to improving community life and to eliminate the distinction between the value of the paid job versus volunteer work.

In closing, Mr. Chairman, I feel there is a need for equity and fairness in our laws today. Changing demographics only reinforce this. There are more women in the work force. More women continue to work after starting families. Divorce remains frequent.

There is a disproportionate number of older women living in poverty.

I applaud the committee for holding hearings on these critical issues, and it is time for Congress to act to give women the economic parity, justice, and fairness long overdue them. I appreciate the opportunity to be with you today, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF HON. TOM LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman and Members of the Committee, I appreciate the opportunity to be here today to testify on the need for equity in current pension and tax laws, particularly as they affect women. I also want to commend my colleagues for their initiatives and efforts to address this critical issue.

My bill, H.R. 3554, the Women's Economic Parity Act, is designed to correct long-standing economic inequities in pension and tax laws affecting American women. It changes pension and tax laws to assure women equitable treatment and coverage under retirement plans, and it acknowledges the economic worth of the homemaker and her community volunteer participation.

With regard to pension law, my bill makes key changes in the Employment Retirement Income Security Act (ERISA). It provides for automatic joint and survivor benefits; it lowers the minimum participation age for private pension reform plans from age 25 to 21; and it requires counting years of service after age 21 for vesting purposes.

My bill also recognizes the need to provide pension credit for women who are absent from work due to company-approved maternity leave. Ninety percent of all pension plans in the United States have fewer than one hundred participants. Compared to pension plans for large corporations, these small company plans have greater difficulty absorbing the hardship of an employee's extended leave of absence.

For this reason, my bill allows women to accrue up to twenty hours of pension credit per week for up to three months. Although an employee's actual maternity leave could be extended beyond the three months for which pension credit is given, the more common example we see today is that women who worked prior to having children choose to resume employment after the initial months of childcare responsibilities.

While other equity legislation also provides benefits for divorced spouses, my bill, the Women's Economic Parity Act, is unique because it clearly defines the roles of the court and the plan administrator in the alienation of pension benefits in divorce cases. This provision outlines in detail the duties of the plan administrator when complications, such as multiple divorces, occur.

The tax equity portion of my bill differs from other equity legislation in its treatment of Individual Retirement Accounts (I.R.A.s), displaced homemakers, and the volunteer's tax credit for child care expenses, and it combines these changes into a single package.

We are all familiar with the inability of a nonworking spouse to establish a separate I.R.A. under current law. The present spousal I.R.A. "bonus" of $250 is clearly inadequate. My bill proposes to change this and to allow a second and separate I.R.A. for nonworking spouses. I believe it is important for a housewife to have her own account, separate from her husband's account. Therefore, my bill proposes to repeal the "earned income" limitation and encourage the nonworking spouse to establish a separate account with whatever funds are at her disposal and take up to the full $2,000 deduction.

My bill also allows employers to take a two-year tax credit if they hire a displaced homemaker. I define a displaced homemaker as a woman who has been providing nonpaid services in the home for a substantial number of yers and who has lost her sole source of support through separation, divorce, abandonment or death of her spouse. Estimates indicate there are over three million displaced homemakers in America. My aim is to provide an avenue whereby this woman—who may be in her thirties or forties, who has never before handled the family finances, and who is still raising several young children—can more easily find employment.

The final provision of H.R. 3554 provides a tax credit for child care expenses for women who perform substantial volunteer services. The purpose of this section is to eliminate the distinction between paid and nonpaid work.

Under current law, mothers who earn a salary can take a credit for child care expenses, but mothers who work as volunteers cannot. This wrongly discriminates against mothers who work for charitable organizations responding to community needs. Furthermore, by not providing a child care credit for regular volunteers, we fail to recognize the enormous and invaluable contribution these women make to improving community life.

I believe a woman's worth should not be measured solely on the basis of her earned income. By providing a tax credit for child care expenses for married women who perform substantial volunteer work, the distinction between the value of a paid job versus volunteer work is eliminated.

Mr. Chairman and Members of the Committee, to summarize my bill, the Women's Economic Parity Act, H.R. 3554, makes key changes in the Employment Retirement Income Security Act (ERISA) regarding joint and survivor benefits, divorced spouses, working women aged 21 to 24, and women on company-approved maternity leave. This bill allows homemakers to set up separate I.R.A.'s, employers to take a tax credit for hiring a displaced homemaker, and individuals who perform substantial volunteer services to take a tax credit for child care expenses.

There is a clear need for equity and fairness in our laws today. Changing demographics only reinforce this: There are more young women in the work force; more women continue to work after starting families; divorce remains frequent; and there is a disproportionate number of older women living alone and in poverty.

I applaud the Committee's efforts to hold hearings on these important issues, as I believe it is important for Congress to act now to give women the economic parity, justice and fairness long overdue them.

Again, Mr. Chairman, I appreciate the opportunity to be here today, and I will be glad to answer any questions the Committee may have.

Chairman ROSTENKOWSKI. The Chair will inform Mr. Lewis that we have 3 minutes left.

Mr. Chapoton, while we are waiting for other members, why don't you present your testimony to Mrs. Kennelly and Mr. Conable.

Mr. CONABLE. Thank you, Tom.

Madam Chairman, I reserve the right—I understand it was reserved in my statement—to make an opening statement. I regret I was not here. I would like to offer it for the record at this point. It is a matter of great concern, and I will appreciate it being included in the record immediately following the chairman's opening statement.

Mrs. KENNELLY [presiding]. Thank you.

I will take this opportunity to ask other members if they have opening statements, and they will all be accepted in full in the record.

Mr. CONABLE. Thank you, Madam Chairman.

I want to welcome Secretary John Chapoton. He has been working on this for some time, and we look forward to your testimony.

Mrs. KENNELLY. Thank you.

Mr. Chapoton.

STATEMENT OF HON. JOHN E. CHAPOTON, ASSISTANT SECRETARY FOR TAX POLICY, DEPARTMENT OF THE TREASURY

Mr. CHAPOTON. Mr. Chairman and members of the committee: I am pleased to appear before you today on behalf of the administration to underline our continuing commitment to the fair distribution of pension and other tax benefits to the working men and women of this country.

The President affirmed his commitment to this principle last January in his state of the Union address. This commitment was reaffirmed with respect to pension equity on September 29 of this year when Mr. Erlenborn introduced H.R. 4032, the Pension Equity Act of 1983, for the administration. The cosponsors of H.R. 4032 are Mrs. Roukema, Mr. Conable, Ms. Fiedler, Mrs. Holt, Mrs. Johnson, Mrs. Martin from Illinois, Mrs. Schneider, Mrs. Smith from Nebraska, Ms. Snowe and Mrs. Vucanovich. Like many of the other bills before this committee that address the issue of pension equity for women, this bill would eliminate many of the difficulties faced by women both in earning pension credits and in receiving retirement income as divorcees and widows.

The administration also is committed to the fair distribution of other tax benefits, including those associated with individual retirement accounts, IRAs. Several of the bills now pending before this committee propose modifications to various tax provisions outside of the qualified plan area. Among these, the administration supports modifying the dependent care tax credit and enabling nonprofit dependent care organizations to qualify for tax-exempt status under section 501(c)(3) of the Code.

In addition, the administration supports expanding the IRA rules to enable a noncompensated spouse to make IRA contributions on the basis of his or her spouse's income and to enable a divorced individual to treat taxable alimony as compensation for purposes of the IRA limits.

The enactment of legislation designed to assure that women receive a more equitable distribution of pension and other tax benefits is a top administration priority. I will go through the individual items in the bill, Madam Chairman, in the several bills before you, rather hurriedly. I will just identify the one about which I am speaking, and then give a quick summary of the administration's position and basic reasoning behind it.

First is individual retirement accounts. As you well know, under current law an individual generally is permitted to deduct IRA contributions up to the lesser of $2,000 or 100 percent of compensation. If deductible contributions are made to an individual's IRA for a noncompensated spouse of the individual, the $2,000 limit is increased to $2,250. Also, current law permits a divorced individual to treat taxable alimony as compensation for purposes of the IRA deduction limit if a spousal IRA had been established for the individual 5 years before the divorce, and if, for at lease 3 of these years, deductible contributions were made on behalf of the spouse.

Many of the bills before this committee would liberalize the spousal IRA rules to benefit spouses who have little or no earnings. For example, H.R. 2090, H.R. 2099, and H.R. 3333 would provide that the compensation of the higher earning spouse may be used by the lower earning spouse for purposes of computing that spouse's IRA deduction limit. H.R. 2984, H.R. 3307, H.R. 3309, and H.R. 3266 would provide that, for purposes of the IRA limits, the compensation of an individual is the sum of, one, the individual's compensation, and two, the compensation of the individual's spouse, reduced by the deductible IRA contributions made by the individual's spouse.

H.R. 3554 would repeal the 100-percent-of-compensation limit on deductions for IRA contributions, and thus would enable not only a noncompensated spouse to benefit from a $2,000 deductible IRA contribution for a year, but any noncompensated individual to make a $2,000 deductible IRA contribution, perhaps out of savings or interest income.

In addition, at least three of the bills before the committee address the situation in which a spouse who earns less than $250 in a year—perhaps from jury duty—is precluded from qualifying for a spousal IRA. Under present law, such a spouse is permitted to make deductible IRA contributions up to only 100 percent of such compensation even though a spouse who had earned no income could make deductible spousal IRA contributions up to $2,000.

H.R. 2595 would provide that, for purposes of the IRA limits, compensation does not include money received for service performed pursuant to a summons to serve on any jury. H.R. 2772 and H.R. 3468 would provide that a spouse who elected to have the spousal IRA rules apply would be treated, for purposes of the IRA limits, as having no compensation for the year.

The administration supports liberalizing the IRA limits to recognize the important economic contributions made by noncompensated spouses to their families. Of the various bills before the committee, we support the approach taken by H.R. 2984, H.R. 3307, H.R. 3309, and H.R. 3266. A married individual's compensation, for purposes of the IRA limits, should be the sum of, one, the individual's compensation, and two, the compensation of the individual's spouse, reduced by deductible IRA contributions made by the individual's spouse.

Thus, a noncompensated spouse could make a $2,000 IRA contribution if his or her spouse earned at least $4,000, even though the working spouse also made a $2,000 IRA contribution. In order to facilitate the administration of this rule, it should be available only to spouses who file joint returns. Adoption of this rule also would eliminate the problem, under current law, confronting a spouse who earns an amount less than $250 in a year.

In supporting this, we recognize the revenue loss, some $0.2 billion in 1984, $0.7 billion in 1985 and $0.8 billion in 1986—or $1.7 billion over the next 3 years. We think it is too important to the retirement security of noncompensated spouses to delay this expansion of the spousal IRA rules.

The administration supports liberalizing the alimony IRA provisions. We think taxable alimony is a shifting of compensation from the payor to payee and, unlike investment income, should be available for IRA contributions.

Turning to the pension benefits, I will mention only three of the five or six areas that are covered in the bills before you, the three most important, the first dealing with participation and vesting under qualified pension plans.

Under current law, there are established certain minimum standards that a retirement plan must satisfy in order for the plan to be exempt from taxation. A qualified plan may not require an employee to attain an age greater than 25 as a condition to becoming a participant, and the vesting standards provide that a qualified plan may not disregard years of service completed after the employee attained age 22.

The administration supports a reduction in the minimum participation age from 25 to 21, and this would remove a significant legal obstacle for individuals between those ages, 21 and 25, to accrual of pension benefits, and it is particularly beneficial to women since the highest labor force participation rate for women is in their early twenties. We also support a reduction in the minimum vesting age along the lines of several bills before you to age 21.

The second part of the pension legislation involves maternity and paternity leave. Under current law, the qualified plan needs to calculate years of service for three purposes: First, for the right of the employee to participate in the plan; second, for vesting; and third, for determining the employee's accrued benefit under the plan. Under present law, no credit need be given for periods during which an employee is considered to have incurred a 1-year break in service. The existing service-counting rules do not require a plan to give an employee credit for any period during which the employee is on unpaid maternity or paternity leave. Several bills before you deal with this problem, and in various ways.

The administration does not support the maternity and paternity leave provisions of the bills that would require an individual on such leave to be provided with the same positive vesting and benefit accrual benefits provided to an individual who is working for the employer. Mandating plans to give these positive credits would probably discourage employers from providing generous leave provisions for their employees.

We do believe, however, that the qualified plan rules should not impose unduly adverse consequences for a reasonable period of time after a child's birth or adoption; and accordingly, we support the approach taken in H.R. 4032, the administration's bill. It assures that an employee will not lose credits for prior years of service for participation or vesting purposes on account of maternity or paternity leave. But it does not create positive credits during that leave.

Finally, in the pension area, the very important problem of joint and survivor annuities is dealt with by several of the bills before you. Current law provides that if a qualified plan offers an annuity as a normal form of benefit, the plan must provide a married participant who has retired or reached normal retirement age—normally 65—a benefit in the form of a joint or survivor annuity. If a plan provides that no benefits will be paid with respect to participants who die while still employed but after attaining the plan's early retirement age, even though the employee may have fully vested benefits, the plan is not required to provide a survivor annuity to the participant's spouse unless the participant prior to death makes an affirmative election to receive a joint and survivor annuity.

In addition, a plan under current law is not required to give the participant the opportunity to elect a joint and survivor benefit until the participant attains the early retirement age or is within 10 years of normal retirement. Accordingly, a plan may provide that no benefits will be paid with respect to a participant who dies before the latter of these two dates; that is, early retirement age, or the day 10 years before normal retirement age. So no benefits need be provided if the participant dies before the latter of those dates, even though he may have accrued fully vested benefits.

In addition, current law provides that even though a married participant has elected to receive retirement benefits in the form of joint and survivor annuity, the plan need not pay the survivor part to an individual, a participant spouse, when payments began, if the individual was not the participant's spouse at the time of the participant's death.

There are many problems that are evident when you simply state the rules of existing law. Under H.R. 4032, the administration's bill, like several of the other bills before you, would modify these current rules. It would require that a qualified plan pay a married participant in the form of a joint and survivor annuity if the plan provides for payment of benefits in an annuity, if the participant has attained the earliest retirement age under the plan which is within 10 years of attaining normal retirement age, and the participant has not elected, with spousal consent, not to receive a joint and survivor annuity.

This has the effect of shifting the presumption in favor of joint and survivor benefits between a plan's early and normal retirement ages—to the early retirement age, in other words.

We support this shift for these years. We cannot, however, support mandating survivor benefits for all married participants who have 10 years of service, as several of the bills before you would do. We think that the cost imposed on employers would outweigh what in many instances would be a very small benefit to the surviving spouse, and we are concerned that employers would offset the increased costs with reductions in life insurance benefits, which we think would be very unfortunate, since at these ages life insurance benefits are the most important benefits the employer offers.

Thus, we think the approach of H.R. 4032 strikes a reasonable balance between the needs of the surviving spouse and costs associated with requiring plans to provide survivor benefits at earlier ages.

H.R. 4032 would also provide that a participant's election not to receive a joint and survivor benefit is effective only if the participant's spouse consents in writing to the election. We support this spousal consent requirement. It will assure that a nonparticipant spouse plays a role in that decision.

Those are the three provisions that I will mention in the pension area. The next item mentioned is the target jobs tax credit for displaced homemakers.

Under current law, the credit is available to employers hiring individuals from one of several specified targeted groups, generally speaking these groups covering economically disadvantaged individuals. The credit is large—50 percent of the first year's wages up to $6,000, and 25 percent of the second year's wages up to $6,000.

Two bills pending before you would have displaced homemakers as targeted groups for the purpose of targeted jobs credit. The administration does not support expanding the targeted jobs credit in this fashion at this time.

First, we specifically oppose any proposal which does not contain the requirement that a displaced homemaker be economically disadvantaged to qualify for the targeted jobs credit. That would change the essential nature of the credit, would permit other categories of similarly deserving individuals to petition for inclusion as targeted groups.

More generally, we are concerned that the proposed definition of displaced homemaker in the group is so vague that it is unlikely to be administrable since most are likely to qualify as members of one of the existing targeted groups, such as recipients of SSI or AFDC; therefore, we do not believe the net benefits of this proposal would outweigh the cost of providing it. Therefore, we are opposing enactment of these proposals at this time.

The next item is dependent care organizations. Under current law such an organization may qualify for tax-exempt status under section 501(c)(3) and may receive deductible contributions only if operated for charitable or educational purposes. The existing rules under those definitions are such that relatively few dependent care organizations have been able to demonstrate to the satisfaction of IRS that they satisfy these criteria.

The bills before you would treat a dependent care organization as one operated for educational purposes if it is operated for nonresidential dependent care, substantially all of the dependent care is provided to enable individuals to be gainfully employed, and the services that are provided by the organization are available to the general public.

We support these bills. We support providing nonprofit dependent care organizations that satisfy these requirements with tax exempt status. They would be both tax-exempt and would qualify for deductible contributions.

We think these organizations do perform the important function of enabling individuals and married couples to continue their careers even though other individuals are dependent on them and need special attention or care during hours of employment. We think this will provide an incentive for the private sector to support dependent care organizations that are not operated for the benefit of their shareholders.

We do point out in the statement one problem that the committee should recognize, and we should deal with; that is allowing tax-deductible contributions to dependent care organizations would create the potential for individuals to characterize a portion of their normal fees as deductible contributions. We think the committee should address this problem in the legislation.

The next item is the very significant matter of the dependent care tax credit allowed individuals. Under the current law, an individual is allowed a nonrefundable tax credit equal to a percentage of his or her qualifying dependent care expenses. This dependent care credit was expanded in ERTA. In particular, ERTA increased creditable percentage from a flat 20 percent for all individuals to 30 percent for individuals with AGI of 10,000 or less, reduced on a sliding scale as AGI increases to 20 percent for individuals with an AGI over 28,000 adjusted gross income.

Qualifying dependent care expenses generally are expenses incurred to permit the taxpayer to be gainfully employed. ERTA also increased the cap on the dependent care expenses that may be taken into account from $2,000 to $2,400 per dependent.

Three of the bills before you would increase the credit to 50 percent for individuals with income under $11,000, and the credit would be phased down more slowly as income goes up under these bills so that individuals with adjusted gross income of up to $40,000 would receive an increased credit as compared to existing law and for individuals earning over $40,000 the present law, 20 percent credit, would remain in effect.

Two of the bills would also make the credit refundable.

The administration supports targeting the dependent care credit more effectively to individuals who least can afford dependent care costs.

We do not support, however, expanding credit as proposed by the bills before you. We estimate the cost of these bills to be approximately $1.2 billion a year. We think this cost outweighs the benefits from these specific proposals. We propose instead that the dependent care credit be restructured so that more of the benefits are available to individuals with lower incomes and less benefits are available to those with higher incomes.

More specifically, we propose that the creditable percentage be increased to 40 percent, from 30 to 40 percent for an individual with income under $20,000, and if that as income increases the percentage be reduced until it is zero for those with incomes, adjusted gross incomes, of $60,000 or more. As under present law, the credit would be nonrefundable under this proposal.

The effect of this reallocation would be to increase the credit to individuals with income below $40,000 and to decrease the credit for those with incomes above that amount. The proposal basically would have no material revenue loss.

And finally, Madam Chairman, I want to discuss the proposed changes in the zero bracket amount for head of household. Under current law, a special rate schedule is provided for individuals who are heads of households. That rate schedule is approximately halfway between the rate applicable to single individuals and the rate schedule applicable to married couples filing a joint return.

The special rate schedule was originally established because unmarried taxpayers who maintain a household for other individuals tend to have financial responsibilities that exceed those of single taxpayers, although it is generally thought to be somewhat less than those of married taxpayers.

Current law provides a ZBA, which is the bottom bracket for which there is no tax liability, equal to $2,300 in the case of a single person and $2,300 in the case of a head of household, but it is $3,400 in the case of a joint return by a married couple.

ZBA was introduced in 1976 to replace the old standard deduction. It serves two policy objectives. It simplifies the tax system by limiting the number of taxpayers who itemize personal deductions, and second, makes the tax system fairer by, in combination with the personal exemptions, assuring the taxpayers with small amounts of income pay no tax.

Two of the bills before you would increase the ZBA for heads of household from the $2,300 to the full $3,400 for joint returns. The rationale obviously is that heads of household have family responsibilities similar to those of married couples.

We recognize that the current method of taxing heads of households, including the current ZBA and the rate schedule, may not strike an appropriate balance between the methods for taxing single and married taxpayers, and that some adjustments in the ZBA and the rate schedule may well be appropriate. But given the cost of this proposal and balancing this proposed change against the other provisions in the bills which we are supporting and think are more important at this time, we feel an increase in the ZBA for heads of households should not be undertaken until we review in a broader context the rate schedules and the ZBA's for the other rate schedules, and thus we are not supporting a change of ZBA at this time.

Madam Chairman, the administration remains strongly committed to working toward greater pension and tax equity for women. We want to commend the committee for the time and effort you are expending toward accomplishing this goal. We look forward to working with you toward it.

[The prepared statement follows:]

STATEMENT OF HON. JOHN E. CHAPOTON, ASSISTANT SECRETARY (TAX POLICY), DEPARTMENT OF THE TREASURY

Mr. Chairman and members of the committee, I am pleased to appear before you today on behalf of the Administration to underline our continuing commitment to the fair distribution of pension and other tax benefits to the working men and women of this country. The President affirmed his commitment to this principle last January in his State of the Union address. This commitment was reaffirmed with respect to pension equity on September 29 of this year when Mr. Erlenborn introduced H.R. 4032, the "Pension Equity Act of 1983," for the administration. The cosponsors of H.R. 4032 are Mrs. Roukema, Mr. Conable, Ms. Fiedler, Mrs. Holt, Mrs. Johnson, Mrs. Martin (Illinois), Mrs. Schneider, Mrs. Smith (Nebraska), Ms. Snowe, and Mrs. Vucanovich. Like many of the other bills before this Committee that address the issue of pension equity for women, this bill would eliminate many of the difficulties faced by women both in earning pension credits and in receiving retirement income as divorcees and widows.

The Administration also is committed to the fair distribution of other tax benefits, including those associated with individual retirement accounts (IRAs). Several of the bills now pending before this Committee proposed modifications to various tax provisions outside of the qualified plan area. Among these, the Administration supports modifying the dependent care tax credit and enabling nonprofit dependent care organizations to qualify for tax-exempt status under section 501(c)(3) of the Code. In addition, the Administration supports expanding the IRA rules to enable a noncompensated spouse to make IRA contributions on the basis of his or her spouse's income and to enable a divorced individual to treat taxable alimony as compensation for purposes of the IRA limits.

The enactment of legislation designed to assure that women receive a more equitable distribution of pension and other tax benefits is a top Administration priority. I am confident, Mr. Chairman, that we will be able to work with you and the other members of this Committee in accomplishing this objective.

RETIREMENT AND PENSION POLICY

Individual retirement accounts

Under current law, an individual generally is permitted to deduct IRA contributions up to the lesser of $2,000 or 100 percent of compensation. If deductible contributions are made to an individual's IRA and to an IRA for a noncompensated spouse of the individual, the $2,000 limit is increased to $2,250. Also, current law permits a divorced individual to treat taxable alimony as compensation for purposes of the IRA deduction limit if a spousal IRA had been established for the individual five years before the divorce and if, for at least three of these years, deducible contributions were made to the spousal IRA.

Many of the bills before this Committee would liberalize the spousal IRA rules to benefit spouses who have little or no earnings. For example, H.R. 2090, H.R. 2099, and H.R. 3333 would provide that the compensation of the higher earning spouse may be used by the lower earning spouse for purposes of computing that spouse's IRA deduction limit. H.R. 2984, H.R. 3307, H.R. 3309, and H.R. 3266 would provide that, for purposes of the IRA limits, the compensation of an individual is the sum of (i) the individual's compensation and (ii) the compensation of the individual's spouse, reduced by the deductible IRA contributions made by the individual's spouse. H.R. 3554 would repeal the 100-percent-of-compensation limit on deductions for IRA contributions, and thus would enable not only a noncompensated spouse to benefit from a $2,000 deductible IRA contribution for a year, but any noncompensated individual to make a $2,000 deducible IRA contribution, perhaps out of savings or interest income.

In addition, at least three of the bills before the Committee address the situation in which a spouse who earns less than $250 in a year (perhaps from jury duty) is precluded from qualifying for a spousal IRA. Under present law, such a spouse is permitted to make deductible IRA contributions up to only 100 percent of such compensation even though a spouse who had earned no income could make deductible spousal IRA contributions up to $2,000. H.R. 2595 would provide that, for purposes of the IRA limits, compensation does not include money received for service performed pursuant to a summons to serve on any jury. H.R. 2772 and H.R. 3468 would provide that a spouse who elected to have the spousal IRA rules apply would be treated, for purposes of the IRA limits, as having no compensation for the year.

The Administration supports liberalizing the IRA limits to recognize the important economic contributions made by noncompensated spouses to their families. Of the various bills before the Committee, we support the approach taken by H.R. 2984, H.R. 3307, H.R. 3309, and H.R. 3266. A married individual's compensation, for purposes of the IRA limits, should be the sum of (i) the individual's compensation and (ii) the compensation of the individual's spouse, reduced by deductible IRA contributions made by the individual's spouse. Thus, a noncompensated spouse could make a $2,000 IRA contribution if his or her spouse earned at least $4,000, even though the working spouse also made a $2,000 IRA contribution. In order to facilitate the administration of this rule, it should be available only to spouses who file joint returns. Adoption of this rule also would eliminate the problem, under current law, confronting a spouse who earns an amount less than $250 in a year.

In supporting this expansion of the IRA deduction limits for married couples, we recognize the substantial revenue loss that it would generate. Our most recent estimates indicate that permitting spousal IRA contributions of $2,000 would generate a loss in revenues of about $800 million per year. Nevertheless, we believe that it is too important to the retirement security of noncompensated spouses to delay this expansion of the spousal IRA rules.

Several of the bills before the Committee also would modify the alimony IRA provision of current law. In particular, H.R. 2090 and H.R. 2099 would permit a divorced individual to treat taxable alimony as compensation for purposes of the IRA deduction limits without regard to whether spousal IRA contributions had been made on behalf of the individual for three of the five years before the divorce.

The Administration supports these proposals. Current law already recognizes that, if certain conditions are satisfied, a divorced individual may count taxable alimony as compensation for purposes of the IRA limits. Whether spousal IRA contributions had been made on behalf of a divorced individual for three of the five years before the divorce is unrelated to whether alimony received by the individual after the divorce should be treated as compensation. Indeed, taxable alimony may be viewed as a shifting of compensation from the payor to the payee and thus, unlike investment income, should be available for IRA contributions.

Employee service for participation and vesting under qualified retirement plans

Current law establishes certain minimum standards that a retirement plan must satisfy in order for the plan to be exempt from taxation, for employer contributions to the plan to be deductible by the employer in the year of contribution, and for employees to avoid taxation on employer contributions until benefits are distributed. The participation standards provide, in relevant part, that a qualified plan may not require an employee to attain an age greater than age 25 as a condition of becoming a participant. The vesting standards provide that in computing the number of years of service with the employer completed by an employee, a qualified plan may not disregard the employee's years of service completed after the employee has attained age 22.

The Administration supports a reduction in the minimum participation age from 25 to 21. This reduction is proposed by H.R. 2090, H.R. 2100, H.R. 3554, and H.R. 4032. We believe that this would remove a significant legal obstacle to the opportunity for individuals between the ages of 21 and 25 to accrue pension benefits and would be particularly beneficial to women between these ages. The highest labor force participation rate for women is for women in their early twenties. The Administration believes that women should not be denied the opportunity to participate in plans during the years that they are most likely to be employed.

The Administration also supports a reduction in the minimum vesting age. Like the other bills, H.R. 4032 proposes reducing this age from 22 to 21. This would reward participants who begin working for an employer at age 21 or earlier and remain with the employer for a significant period of time, without imposing significant and unjustified recordkeeping or financial costs on employers or plans. Indeed, as long as a plan is permitted to exclude from participation employees who have not attained a certain minimum age, there is a question about whether a plan should be allowed to disregard any of an employee's years of service, for vesting purposes, on account of the employee's age.

Maternity and paternity leave

Under current law, a plan needs to calculate an employee's years of service to determine (i) whether the employee should be permitted to participate in the plan, (ii) the extent to which the employee's benefits have vested, and (iii) the employee's accrued benefit. The term "year of service" generally means a year during which the employee has performed at least 1,000 hours of service for the employer.

In general, all of an employee's years of service with the employer must be taken into account. There are situations, however, in which an employee who incurs a break in service lasting for one or more years may be denied credit for years of service before the break for purposes of determining both when the employee may begin participating in the plan after the break and the portion of the participant's plan benefits that has vested. A one-year break in service generally is a year during which the employee does not complete at least 500 hours of service. For example, if a nonvested participant incurs a break in service of one or more years, a plan is permitted to disregard, for both participation and vesting purposes, years of service completed before the break if the number of consecutive one-year breaks in service equals or exceeds the number of such years of service.

The existing service-counting rules do not require a plan to give an employee credit for any period during which the employee is on unpaid maternity or paternity leave. If an employee is on paid maternity or paternity leave, however, the plan must credit the employee with the paid hours (even though no services were performed) up to 501 hours.

H.R. 2090, H.R. 2100, and H.R. 3554 would provide that, for purposes of participation, vesting, and benefit accrual, an employee must be credited with 20 hours of service for each week of approved maternity or paternity leave, without regard to whether the employee is paid during the leave. Under H.R. 2090 and H.R. 2100, the maximum period of approved maternity or paternity leave is 52 weeks. Under H.R. 3554, the maximum period of leave is 12 weeks. Each of the bills requires that the employee at least offer to begin working for the employer at the end of the period of leave.

The Administration does not support the maternity and paternity leave provisions of these bills. We believe that an individual on maternity or paternity leave should not be provided with the same positive vesting and benefit accrual credits provided to an individual who is working for the employer. Also, we are concerned that mandating plans to give such positive credits may discourage employers from providing generous leave provisions for their employees.

We do believe, however, that the qualified plan rules should not impose unduly adverse consequences when an individual has or adopts a child for a reasonable period of time after the child's birth or adoption. Accordingly, the Administration supports the approach taken in H.R. 4032. Under this approach, an employee would be credited with the hours of service that the employee would have earned but for the leave only for purposes of determining whether the employee has incurred a break in service participation and vesting purposes. These hours would be credited in the year of the child's birth or adoption, unless they are not necessary to prevent a break in service in that year. If this is the case, they are to be credited in the immediately following year.

The approach taken by H.R. 4032 thus assures that an employee will not lose credit for prior years of service for participation and vesting purposes on account of a maternity or paternity leave. Generally, the effect of H.R. 4032 would be that individuals would be able to take between 18 and 29 months of maternity or paternity leave before returning to work in order to avoid incurring a break in service. We believe that this protection would be very meaningful to employees without unduly imposing additional costs on employers maintaining plans.

We would be very happy to discuss with the Committee alternative methods of providing protection for individuals on maternity or paternity leave. Although we firmly beleive that individuals on maternity or paternity leave should not be provided with positive credits for vesting and benefit accrual purposes, we are not irrevocably committed to the particular provisions of H.R. 4032. For example, it may be possible to provide individuals with adequate protection by developing more general changes to the existing break in service rules, so that an individual who leaves the service of the employer for any reason will be protected against a loss of prior service credits for a specified period of time.

Cash out of accrued benefits

Current law provides a special rule for purposes of determining the accrued benefit of an employee who terminates plan participation, receives a distribution of his or her benefit from the plan, and then resumes plan participation at a later time. The rule provides that, for purposes of determining such an employee's accrued benefit after the resumption of participation, the plan may disregard years of service before the termination if, at that time, the employee received a distribution of the present value of his or her entire vested benefit and such present value was not more than $1,750. If an employee was not fully vested in his or her accrued benefit at the time of termination, the plan must provide the employee with the opportunity, upon resumption of participation, to repay the full amount of the distribution. If the employee repays the full amount of the distribution, the plan is not permitted to disregard the employee's prior service and must restore any forfeited amounts. A special rule for defined contribution plans provides that if the employee incurs a one-year break in service, the plan is not required to provide the employee with an opportunity to buy-back the forfeited benefits.

The existing rule is one of administrative convenience for plans. On a percent basis, the administrative costs of making annuity or installment payments of very small amounts are far greater than the costs associated with a lump-sum payment. Any possible detriment to employees caused by this rule is mitigated by the participant's ability to roll over the lump-sum payment into an IRA without tax consequences and then to receive the retirement benefits over time.

H.R. 4032 proposes to increase the limit on the amount that a plan may involuntarily cash-out from $1,750 to $3,500. The Administration supports this provision because it would reduce an administration burden that has heretofore been shouldered by plans.

The antiassignment rule and domestic relations orders

Under current law, benefits under a qualified plan generally may not be assigned or alienated, either voluntarily or involuntarily. This rule generally preempts State laws that otherwise would permit an alienation or assignment of such benefits.

Questions have arisen about the scope of the anti-assignment and preemption rules. First, it is unclear whether the rules apply to assignments to satisfy family support obligations, such as alimony and child support. State courts have held and the IRS has ruled that Congress did not intend to preempt State law on these matters. Second, there is a divergence of opinion about whether the preemption rule applies with respect to State community property laws concerning the ownership of the benefits accrued under a qualified plan.

H.R. 2090, H.R. 2100, H.R. 3554, and H.R. 4032 would provide an exception from the prohibition on the assignment of qualified plan benefits and from the associated preemption rule in the case of State court orders relating to child support, alimony payments, or marital property rights pursuant to State domestic relations laws (whether of the common law or community property type). The exception generally would apply to orders that (i) clearly identify the participant, the amount or percentage of the benefits to which the order applies, and the name and mailing address of the alternate payee (spouse, former spouse, or child of a participant or beneficiary under the plan); and (ii) do not require the plan to alter the effective date, timing, form, duration, or amount of any benefit payments under the plan or to honor any election that is not provided under the plan or that is not made by an eligible person. An order that satisfies these requirements is referred to as a qualified domestic relations order.

In addition to the basic exception, H.R. 4032 addresses the tax treatment of distributions made pursuant to qualified domestic relations orders. For example, for purposes of determining the portion of the benefits that are includible in the alternate payee's income, the participant's investment in the contract would be prorated between the participant's and alternate payee's portions of the total benefit. In addition, a total distribution to an alternate payee would be eligible for the special tax treatment under the 10-year forward averaging rules. Finally, an alternate payee would be permitted to roll over distributions, without tax, to an IRA.

Both H.R. 3554 and H.R. 4032 contain administrative procedures applicable to a plan's determination of whether an order is a qualified domestic relations order. H.R. 4032 does not propose specific procedures governing this determination. Instead, it requires each plan to establish reasonable procedures for determining whether domestic relations orders are qualified and for administering distributions pursuant to such orders, and sets forth certain minimum standards for reasonable procedures. H.R. 3554, however, proposes very specific administrative procedures that a plan must follow in determining whether orders are qualified.

The Administration strongly supports the intent of the various approaches to excepting certain benefit assignments pursuant to State court domestic relations orders from the anti-assignment and preemption rules. Even though an implied exception to these rules has been recognized by State courts and the IRS, a statutory amendment would confirm the exception. In addition, by specifically defining the scope of the exception, an amendment would reduce the associated legal and administrative costs being incurred by plans as they increasingly become involved in family disputes; the trustees of many plans fear that the fiduciary rules require them to challenge attempts to assign plan benefits, and if a court order appears to violate the terms of the plan, trustees fear having to pay the same benefits twice (once to the alternate payee and again to the participant).

We believe that the provisions of the bills before the Committee generally represent a fair balancing of the various interests affected by the assignment of qualified plan benefits in connection with court-sanctioned family support obligations. In this regard, we believe it is very important that the rules governing distributions of benefits to alternate payees under domestic relations orders not impose undue burdens on plans. Consequently, it would not be appropriate to permit a court to require a plan to provide benefits in a form or at a time not generally available to participants under the plan. In addition, we are very concerned that whatever rules are ultimately enacted not have the effect of federalizing domestic relations matters. Thus, the rules should merely limit what a court order may require a plan to do, and in so doing should provide courts with as much leeway as possible in prescribing the particular way in which an alternate payee's interest is to be treated.

Finally, we are very interested in exploring with the Committee the efficacy of enacting specific administrative procedures, such as those proposed in H.R. 3554, to protect plans that make court-ordered distributions. Although H.R. 4032 does not propose detailed procedures, it does recognize that reasonable procedures may provide plans with greater certainty about how to treat State court orders directing the payment of a participant's benefits to an alternate payee.

Joint and survivor annuities

Under current law, if a qualified plan offers an annuity as the normal form of benefit (generally, a defined benefit plan), the plan must provide a married participant who has either retired or reached the normal retirement age under the plan (typically, age 65) a benefit in the form of a joint and survivor annuity. In addition, the plan must give such a participant the opportunity to elect not to receive the joint and survivor benefit.

In the case of a married participant who is eligible to retire under the plan before the normal retirement age (i.e., at an early retirement age) and who has not yet retired, the plan is not required to provide the participant with a joint and survivor benefit unless the participant affirmatively elects such a benefit. Thus, if a plan provides that no benefits will be paid with respect to a participant who dies while still employed after attaining the plan's early retirement age (even though the participant may have a fully vested benefit), the plan is not required to provide a survivor annuity to the participant's spouse unless the participant, prior to death, makes an affirmative election to receive a joint and survivor annuity.

In addition, a plan is not required to give a participant the opportunity to elect a joint and survivor benefit until the participant attains the early retirement age or is within 10 years of the normal retirement age, whichever is later. Accordingly, a plan may provide that no benefits will be paid with respect to a participant who dies before the later of these two dates even though the participant may have accrued a fully vested benefit.

Current law permits a plan to provide that any election or revocation causing a participant to receive a joint and survivor annuity will not be effective if the participant dies, from non-accidental causes, within two years of the election or revocation. In addition, current law provides that even though a married participant has elected to receive retirement benefits in the form of a joint and survivor annuity, a plan need not pay the survivor portion of the annuity to an individual who was the participant's spouse when the payments began if the individual is not the participant's spouse at the time of the participant's death.

H.R. 2090, H.R. 2100, and H.R. 3554 would change the rules governing the provision of joint and survivor benefits. In particular, these bills would create four new joint and survivor rules.

First, these bills would require a plan under which the normal form of benefit is an annuity to provide a married participant who has ten or more years of service with a joint and survivor benefit. This would have the effect of extending the presumption in favor of a joint survivor annuity, which currently exists for married participants only at retirement or the attainment of normal retirement age, to all married participants with ten or more years of service. Accordingly, if a participant with ten years of service dies before receiving any benefits, the participant's surviving spouse must receive a survivor annuity unless the participant had elected not to receive the joint and survivor benefit. Under these bills, the survivor annuity would be paid for the life of the surviving spouse beginning, at the earliest, on the date that the participant would have attained the earliest retirement age under the plan.

Second, the bills would provide that an election by a participant not to receive a joint and survivor annuity, including the "early death" survivor annuity mandated under the preceding rule, is not effective unless the spouse consents to the election.

Third, the bills would require a plan to treat an individual who was the spouse of a participant when joint and survivor payments were first made to the participant as though such individual were still the participant's spouse on the date of the participant's death, even though they had been divorced. Accordingly, a plan would be required to pay the survivor benefit to such individual.

Fourth, the bills would eliminate the rule permitting a plan to disregard an election to receive a joint and survivor benefit if the participant dies, from non-accidental causes, within two years of the election.

H.R. 4032, the Administration's bill, also would modify the current rules governing joint and survivor annuities. It would require that a qualified plan pay a married participant's benefits in the form of a joint and survivor annuity if (i) the plan provides for the payment of benefits in the form of an annuity (whether the annuity is the normal form or merely an optional form of benefit under the plan), (ii) the participant has attained the earliest retirement age under the plan or is within 10 years of attaining the normal retirement age under the plan, whichever is later, and (iii) the participant has not elected (with spousal consent) not to receive a joint and survivor benefit.

H.R. 4032 thus would reimpose the qualification requirement, declared invalid in *BBS Associates, Inc.* v. *Commissioner,* 74 T.C. 1118 (1980), aff'd 661 F.2d 913 (3rd Cir. 1981), that if a plan offers an annuity as a form of benefit (even though an annuity is not the normal form of benefit), the plan must distribute benefits to married participants in the joint and survivor form unless they elect another form. We adopted this requirement in regulations because we believed then, and we continue to believe now, that this rule in favor of joint and survivor benefits is proper.

In addition, H.R. 4032 would reverse the presumption with respect to joint and survivor annuities for married participants who have attained the later of the plan's earliest retirement age or 10 years before the plan's normal retirement age, but in either case have continued to work. Thus, a plan that provides benefits in the form of an annuity would be required to provide a participant with a joint and survivor benefit beginning when the participant has attained the later of the earliest retirement age or the day 10 years before the normal retirement age, unless the participant elects otherwise with spousal consent.

The Administration supports shifting the presumption, between a plan's early and normal retirement ages, in favor of joint and survivor benefits. Mandating survivor benefits for all married participants with ten years of service would impose costs on plans and employers that outweigh what in many instances will be very small benefits for surviving spouses. In addition, we are concerned that employers will offset the increased costs in this area with reductions in life insurance benefits. Finally, we are concerned that if plans are required to provide joint and survivor benefits to these participants, increasing numbers of defined benefit plans will cease offering annuities and, instead, will offer installment or term certain payments. This would have an adverse effect on both men and women in the private pension system, which primarily is intended to provide retirement benefits for life.

In our view, H.R. 4032 strikes a reasonable balance between the needs of surviving spouses and the costs associated with requiring plans to provide survivor benefits at earlier ages, especially because life insurance protection actually may be more important for such participants and their spouses. Indeed, H.R. 4032 would extend survivor coverage to those years when such coverage is most needed and when surviving spouses (especially nonworking spouses) generally have few other sources of income. There may, of course, be other approaches that strike a reasonable balance among the various competing interests and, thus, we welcome the opportunity to work with the Committee in exploring this area further.

H.R. 4032 also would provide that a participant's election not to receive a joint and survivor benefit is effective only if the participant's spouse consents in writing to the election. Moreover, the bill would provide that if a spouse's consent is witnessed by a notary public or an authorized plan representative, the plan's good faith payment of benefits in accordance with the participant's election would discharge its obligation to both the participant and the spouse to the extent of such payments.

The Administration supports the spousal consent requirement as an appropriate safeguard to assure that a nonparticipant spouse plays a role in deciding whether such spouse's survivor benefit should be rejected in favor of a form of benefit without survivor protection. In addition, it is important to relieve plans that reasonably rely on a notarized or witnessed consent from having to pay benefits twice, once to the participant and then later to the participant's surviving spouse.

Finally, H.R. 4032 would require a plan (i) to treat an individual who was a participant's spouse when joint and survivor annuity payments began, but not at the participant's death, as though such individual remained the participant's spouse at death, and (ii) to recognize a participant's election to receive a joint and survivor benefit without regard to whether or why the participant dies within two years of the election. The Administration continues to support these provisions.

TARGETED JOBS TAX CREDIT FOR DISPLACED HOMEMAKERS

Under current law, the targeted jobs tax credit is available to employers hiring individuals from one of the following targeted groups: (i) vocational rehabilitation referrals; (ii) individuals in various groups of economically disadvantaged families, such as youths aged 18–24, Vietnam-era veterans, youths aged 16–18 participating in cooperative education programs, ex-convicts, and youths aged 16–17 in summer employment; and (iii) recipients of SSI, State or local general assistance, or AFDC. The credit currently is scheduled to expire with respect to individuals who begin work after 1984.

The credit is equal to 50 percent of the first $6,000 of the individual's first-year wages from the employer and 25 percent of the first $6,000 of the individual's second-year wages.

H.R. 2090 and H.R. 2127 would add displaced homemakers as a targeted group for purposes of the targeted jobs tax credit. These bills define a displaced homemaker as an individual who (i) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members; (ii) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or is receiving public assistance on account of dependent children in the home; and (iii) is a member of an economically disadvantaged family and is experiencing difficulty in obtaining or upgrading employment.

H.R. 3554 also would add displaced homemakers as a targeted group and would define the term in the same manner as the other bills, except that H.R. 3554 would not require that a displaced homemaker be a member of an economically disadvantaged family.

The Administration does not support expanding the targeted jobs tax credit. We strongly oppose the proposal in H.R. 3554, which does not contain the requirement that a displaced homemaker be economically disadvantaged. The original purpose of the targeted jobs tax credit was to encourage employers to hire individuals who either were receiving certain types of means-tested public assistance or were otherwise economically disadvantaged. This purpose remains reflected by the existing targeted groups. H.R. 3554 would change the essential nature of the credit and permit other categories of similarly deserving individuals to petition for inclusion as targeted groups.

With respect to H.R. 2090 and H.R. 2127, the proposed definition of "displaced homemaker" is so vague that it is unlikely that the provision would be administrable. Moreover, we estimate that the revenue loss associated with the proposal would be about $430 million for fiscal years 1986–89. Because those displaced homemakers who are most in need are likely to qualify as members of one of the existing targeted groups, such as recipients of SSI, State or local general assistance, or AFDC, we do not believe that the net benefits of the proposal would outweigh the revenue cost. We thus do not support the enactment of these proposals at this time.

DEPENDENT CARE ORGANIZATIONS AS TAX-EXEMPT ORGANIZATIONS

Under current law, nonprofit organizations that are operated primarily for charitable or educational purposes, and no part of the net earnings of which inure to the benefit of any private shareholder or individual, are exempt from Federal income tax under section 501(c)(3) of the Code. Contributions to organizations that are tax-exempt under section 501(c)(3) are deductible for Federal income, gift, and estate tax purposes.

A dependent care organization may qualify for tax-exempt status under section 501(c)(3) and receive tax-deductible contributions if it is operated primarily for either charitable or educational purposes. A dependent care organization qualifies as charitable if its services are provided solely to children from "needy" or low-income families. In order to qualify as educational, a day care center must establish that it has an integrated and planned educational program. In determining whether a day care center is educational, the IRS applies the criteria applicable to schools. The applicable criteria include (i) a regularly scheduled curriculum; (ii) a regular faculty; and (iii) a regularly enrolled body of students in attendance at a place where educational activities are regularly carried on. Relatively few dependent care organizations have been able to demonstrate, to the satisfaction of the IRS, that they satisfy these criteria.

H.R. 1603, H.R. 1991, and H.R. 2090 would treat a dependent care organization as operated for "educational purposes" under section 501(c)(3) if (i) such organization is operated to provide nonresidential dependent care; (ii) substantially all of the dependent care is provided to enable individuals to be gainfully employed; and (iii) the services provided by the organization are available to the general public. Accordingly, a nonprofit dependent care organization that satisfies these requirements and the rule against private inurement would be exempt from Federal income tax and eligible to receive tax-deductible contributions, without regard to whether the organization is operated primarily for either charitable or educational purposes.

The Administration supports providing nonprofit dependent care organizations that satisfy the proposed requirements with tax-exempt status for Federal income tax purposes under section 501(c)(3). These organizations perform the important function of enabling individuals and married couples to continue their careers even though other individuals are dependent on them and need special attention or care during hours of employment. They are particularly important to women who choose to postpone or give up their careers in order to care for children and other dependents. The Administration believes that the proposed legislation will provide an incentive for the private sector to support dependent care organizations that are not operated for the benefit of shareholders.

Although we support the proposed legislation, we note that allowing tax-deductible contributions to dependent care organizations would create the potential for individuals to characterize a portion of their normal fees as deductible "contributions." As is the case with other tax-exempt organizations under section 501(c)(3), payments characterized as contributions will not be deductible if they are in fact payments in exchange for services or other consideration or if the taxpayer claims the dependent care credit with respect to such payments. We would like to work with the Committee in developing legislation or legislative history that will specifically address this potential abuse.

DEPENDENT CARE TAX CREDIT

Current law provides an individual with a nonrefundable tax credit equal to the creditable percentage of the individual's qualifying dependent care expenses. The Economic Recovery Tax Act of 1981 (ERTA) expanded the dependent care credit to its present levels. In particular, ERTA increased the creditable percentage from a flat 20 percent to 30 percent for an individual with an adjusted gross income (AGI) of $10,000 or less, reduced, on a sliding scale as AGI increases, to 20 percent for an individual with an AGI over $28,000.

Qualifying dependent care expenses generally are expenses incurred to permit the taxpayer to be gainfully employed. An exception is provided when one spouse is incapacitated or attending school full time. ERTA also increased the cap on the dependent care expenses that may be taken into account in computing the credit from $2,000 to $2,400 per year for one qualifying dependent and from $4,000 to $4,800 per year for two or more qualifying dependents. Consequently , after ERTA, for individuals with incomes of $10,000 or less, the maximum credit is $720 for one qualifying dependent and $1,440 for two or more qualifying dependents. Similarly, for individuals with incomes over $28,000, the maximum credit is $480 for one qualifying dependent and $960 for two or more qualifying dependents.

H.R. 1603, H.R. 1991, and H.R. 2090 would increase the creditable percentage applicable for purposes of calculating the credit to 50 percent for individuals with incomes under $11,000. Thus, for such individuals, the maximum credit would be $1,200 for one qualifying dependent and $2,400 for two or more qualifying dependents.

Under the bills, the 50-percent creditable percentage would be reduced (but not below 20 percent) by one percentage point for each full $1,000 of adjusted gross income above $10,000. Thus, an individual with $20,000 of income would be entitled to a credit equal to 40 percent of qualifying dependent care expenses, and individuals with incomes up to $40,000 would receive an increased credit, as compared to existing law. For an individual with $40,000 or more of income, the credit would equal 20 percent of qualifying dependent care expenses, as under present law. For these individuals, the maximum credit would remain at $480 for one qualifying dependent and $960 for two or more qualifying dependents.

Because many low-income individuals do not owe sufficient tax to make full use of the increased credit, H.R. 1603 and H.R. 2090 propose to make the dependent care credit refundable. Thus, if the credit exceeds the taxes owed, the excess would be paid in cash to the taxpayer. Under H.R. 1991, however, the credit would not be refundable.

Finally, H.R. 2696 would allow the credit for dependent care expenses incurred to permit a taxpayer to provide volunteer service to various tax-exempt organizations that satisfy the rule against private inurement and contribute to the promotion of human welfare. H.R. 3554 contains this same proposal, except that it defines volunteer services more narrowly to include only services for organizations defined in section 170(c) of the Code.

Adjustment of the dependent care credit to provide financial assistance to single heads of households and low and middle income two-worker married couples with children is needed at this time. The Administration supports targeting the credit more effectively at individuals who can least afford these dependent care costs.

We do not support, however, expanding the credit as proposed by H.R. 1603 and H.R. 2090. These bills would increase the creditable percentage for all individuals with incomes under $40,000 and would make any unused portion of the credit refundable. We estimate the cost of these proposals to be approximately $1.2 billion a year. At the present time, this revenue cost outweighs the benefits that would result from the enactment of these proposals.

H.R. 1991 would make the same increase in the creditable percentage proposed by H.R. 1603 and H.R. 2090, but H.R. 1991 does not propose to make the credit refundable. While the resulting revenue loss associated with this proposal would be somewhat lower (approximately $800 million a year), we still find the proposal to be unacceptable.

We also object to the provision of H.R. 2696 and H.R. 3554 that would permit the credit for expenses related to volunteer service. Under current law, the credit is available only for expenses related to gainful employment. Although we endorse and support volunteer service for charitable organizations, we do not believe that the credit should be expanded to apply to expenses not incurred in connection with employment.

The Administration proposes that the dependent care credit be restructured so that more benefits are available to those individuals with lower incomes and less benefits are available to those with higher incomes. More specifically, we propose that the creditable percentage be increased to 40 percent for an individual with an income of $10,000 or less, and that as income increases, the percentage be reduced until it is zero for those with incomes of $60,000 or more. Under this proposal, the credit would not be refundable.

The effect of restructuring the credit in this fashion would be to increase the credit for those individuals with incomes below $40,000 and reduce the credit for those with incomes above this amount. This proposal would not cause any material revenue loss.

We recognize that our proposal to expand the dependent care credit may not be the only method to target the benefits of the credit more effectively, on a revenue-neutral basis, to those individuals for whom dependent care costs represent the greatest burden. However, we believe that the approach embodied in our proposal, given the existing budgetary constraints, is preferable to the proposals currently before the Committee.

ZERO BRACKET AMOUNT FOR HEADS OF HOUSEHOLDS

Current law provides special tax rates for individuals who are heads of households. These rates are approximately midway between the rates applicable to single individuals and to married couples filing jointly. In order to be classified as a head of household, an individual must be unmarried and generally must maintain a household that includes the individual and at least one dependent person. This special rate schedule originally was established because unmarried taxpayers who maintain a household for other individuals generally have financial responsibilities that exceed those of single taxpayers.

Current law provides a zero bracket amount (ZBA), which is the bottom bracket in the rate schedule in which taxable income is subject to no tax. Additionally, the ZBA is a floor on itemized deductions; only itemized deductions in excess of the ZBA are deductible in determining taxable income. The ZBA for heads of households is $2,300, the same as the ZBA for single taxpayers. The ZBA for married taxpayers who file joint returns is $3,400.

The Tax Reform Act of 1976 introduced the ZBA to replace the old standard deduction. The standard deduction achieved exactly the same result as the ZBA by allowing a special deduction to non-itemizers.

The ZBA advances two policy objectives. First, it simplifies the tax system by limiting the number of taxpayers who itemize personal deductions. Second, it makes the tax system fairer by, in combination with the personal exemptions, assuring that taxpayers with small amounts of income pay no tax.

H.R. 2090 and H.R. 2196 propose to increase the ZBA for heads of households to $3,400 and to make the corresponding changes in the rate brackets of the head-of-household rate schedule. The rationale for this proposal is that heads of households have family responsibilities similar to those of married couples; hence, they should be allowed the same ZBA as married couples.

The Administration recognizes that the current method of taxing heads of households, including the current ZBA and rate schedule, may not strike the appropriate balance between the methods for taxing single and married taxpayers. Accordingly, some adjustments may well be appropriate.

Nevertheless, we must oppose the proposals in H.R. 2090 and H.R. 2196 at this time. These proposals would cost about $1 billion a year in lost tax revenue. In the context of the other proposed charges that the Administration supports and that will reduce revenues, we do not believe that we can afford this additional cost at this time.

Although we oppose the proposals in H.R. 2090 and H.R. 2196, the Administration believes that it is important to reexamine the entire tax rate structure as it applies to unmarried heads of households. This analysis, however, should await a broader reexamination of the rate structure that can be undertaken at the present time.

CONCLUSION

Mr. Chairman, the Administration remains strongly committed to working toward greater pension and tax equity for women and we commend you and this Committee for the time and effort that you are expending toward accomplishing this goal. We look forward to working with you on this important task. Legislation in this area not only is proper, but should be enacted as quickly as possible.

This concludes my prepared remarks. I would be happy to answer any questions that the Committee might have.

Mrs. KENNELLY. Thank you.

Obviously this morning we are very pleased to have your support for a number of these bills. We are pleased to read in the Washington Post that the President himself is very interested now in the IRA and other proposals. This certainly is going to make our job easier.

Mr. Chapoton, in your mind are there any priorities? You have mentioned some that you will back, others that you won't back. Could you help us a little bit?

Mr. CHAPOTON. In addition to the pension items, most directly the joint and survivor annuity, lower participation investing requirements, and less restriction on maternity and paternity leave;

those are items that have been announced before. We testified on the Senate Finance Committee in support of those.

Of the other items we are supporting strong increase in the individual retirement account limits for the noncompensated spouse. We are not supporting at this time the targeted jobs tax credit for displaced homemakers because of the reasons I stated, that is that the definition is very vague, and those who are in need, most in need are probably already covered.

We are supporting making dependent care organizations fully tax exempt. We are supporting a restructuring of the dependent care credit, due to the lower income scale, in an attempt to keep that change basically neutral.

Mrs. **Kennelly**. Did I hear you say in your proposal that after $60,000 of combined spoused income the tax credit for child care would be down to zero percent?

Mr. **Chapoton**. After $60,000 of adjusted gross income. It now runs from 30 percent down to 20 percent at $28,000, and then continues at 20 percent at all income levels. In an effort to provide more benefits at lower incomes of the scale, and to try to make it less costly to do that, we are increasing the benefit at the lower incomes, but decreasing the credit so that at about $40,000 there would be a slight decrease—$40,000 and above, slight decrease in the credit under existing law, and it would phase down to zero at $60,000 and above.

Now there is no phaseout under current law.

Mrs. **Kennelly**. That is a little troublesome.

Take one couple, one spouse earning $30,000, another earning $30,000, probably one of the reasons they can hold these jobs is their eligibility for the tax credit.

Mr. **Chapoton**. It is a balancing matter. It is of course of concern that—I mean the dependent care credit is important, we understand that. At some level of income, whether $60,000 is the right level is a judgment matter—at some level of income we think the tax system should no longer provide a benefit for this type of expense.

Now, we are perfectly willing to discuss where that level should be. We have selected in our proposal $60,000.

Mrs. **Kennelly**. I just worry that they should have some equity too. But we will go into this more later.

Mr. Conable?

Mr. **Conable**. Thank you.

Buck, I appreciate your statement. I think it is a careful delineation of the administration's position. We are glad to have that. We have been uncertain about it.

Will you tell us a little something about the income distribution in the spousal IRA proposal? There is going to be a claim that most of the benefit will go to the relatively wealthy, they will get a bigger benefit from this obviously than the others.

Mr. **Chapoton**. That is a matter of projection. Our estimate is about two-thirds of the benefit will be—adjusted gross income level $50,000 and below.

Mr. **Conable**. The IRA is an easy type of additional security for people who are below the $50,000 area?

Mr. **Chapoton**. That is correct.

Mr. **Conable**. Those above that tend to go into more elaborate plans than IRA.

Mr. **Chapoton**. That is correct. Though certainly more than we anticipated, I must say, have taken advantage of individual retirement accounts at all income levels.

Mr. **Conable**. Would you tell me also what is the administration's estimate of the revenue reduction involved in that IRA?

Mr. **Chapoton**. The individual retirement account over the next 3 years would lose about—spousal IRA would lose about $1.7 billion.

Mr. **Conable**. Is that based on the existing law or the proposal that is coming out of the Ways and Means Committee?

Mr. **Chapoton**. That is based on existing law.

Mr. **Conable**. It would be less than that in all probability if the proposal in the current tax bill were to be enacted?

Mr. **Chapoton**. I doubt it would be much less. Anyone making a contribution and had this opportunity would make this contribution, because it would be deductible. So that probably runs something along a parallel track—nondeductible contribution by somebody who has already made the deductible contribution.

Mr. **Conable**. It is my understanding you don't necessarily oppose moving the ZBA to a point midway between that of single and joint returns, but that you think it ought to be done as part of a comprehensive adjustment of the ZBA, since one thing leads to another in that normally, and adjustments made individually become the equitable argument for moving some other aspect, joint returns, or single people.

Mr. **Chapoton**. That is absolutely correct. There is no doubt, viewed rightly where the current law is, that a strong case could be made for moving the zero bracket amount for heads of household somewhere in between single and married taxpayers. But once you make that move——

Mr. **Conable**. You prefer to deal with that in a more comprehensive environment in which we review the whole area, so as not to have one step be simply the precursor to the next?

Mr. **Chapoton**. That is correct.

Mr. **Conable**. Thank you.

Mrs. **Kennelly**. Mr. Duncan.

Mr. **Duncan**. Thank you.

Mr. Chapoton, on page 3 you indicate that they can make a $2,000 contribution to IRA. Do you intend to say they can make up to $2,000?

Mr. **Chapoton**. That is correct, up to $2,000.

Mr. **Duncan**. OK.

What about the divorce provisions under current law? Do they carry forward to this?

Mr. **Chapoton**. We are supporting the bills which would treat alimony as compensation for all purposes of individual retirement account rules without restriction so that a divorced spouse receiving up to $2,000 of taxable alimony could contribute up to $2,000 to his or her own IRA.

Mr. **Duncan**. That is all I have. Thank you very much.

Thank you, Madam Chairman.

Mrs. **Kennelly**. Thank you very much for coming.

Mr. **Chapoton**. Thank you.

Mrs. **Kennelly**. Our next witnesses are Congresswoman Fiedler and Congressman Green.

Thank you very much for coming and sharing with us your thoughts on this bill today.

STATEMENT OF HON. BOBBI FIEDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. **Fiedler**. Thank you.

I think that the legislation concerning pension, IRA, and tax reform that we are talking about for the most part is an investment in the future. If there is one message I can get across today to the committee, it is to look at these issues from that perspective.

I think that we are trying to make decisions regarding Government policy, and how they are going to affect our citizens. If there is one thing we can do that makes a positive contribution, that is to help them better plan to take care of themselves.

I think if you take a look at each one of the provisions which you have under consideration, particularly those that affect women, you will see that most of them are directed toward greater independence, greater self-sufficiency in the future.

One of the reasons we are here today is that our planning in the past has not recognized women in the independent kind of role that they have begun to take, and that they have moved historically into greater positions of independence as well as responsibility, planning for their futures. They need to recognize changes that are taking place from the more traditional role as housewife, mother, supporter of the male in the household, to independent breadwinner, independent woman responsible for both their family and their future.

I am strongly in support of pension reform bills that are being presented to the committee, and would particularly like to underscore the Erlenborn bill. H.R. 4032, and Mr. Dole's bill, S. 1978.

I share the support of my colleagues who have preceded me on the panel for the important reforms such as: (1) lowering the minimum age for participation; (2) preventing maternity leave break-in-service; and (3) requiring consent of spouses for election out of joint and survivor coverage. I do think one of the important things that might be considered by the committee, and I hope you will take a close look at it, is a special provision in S. 1978 regarding spousal survivor coverage.

Senator Dole has come up with a compromise regarding the survivor's benefits that can be paid to a woman in the event that her husband is 45 years old and has worked over 10 years. I think that is a reasonable compromise. I would hope that the committee would look favorably at that particular provision.

The homemaker IRA in my opinion is one of the most important things that we can do. I am extremely pleased that the President has decided to support that. It also reflects the changes in the view historically of women, in that the initial homemaker IRA treated women as though they were nothing more than appendages to their husbands. Because of the tremendous changes that are taking place historically, it is important that we recognize the special contribution that women who are working in their home contribute, both in terms of their community as well as to the welfare of their children, families, and I think ultimately to the stability of the Nation.

The homemaker IRA is very, very important. I happen to prefer Mr. Daub's bill, H.R. 765, because it expands the IRA limit to $2,500. But whether it be that particular bill or merely an expansion to the $2,000 figure which is being recommended by the administration, I think that it will help to provide better planning for the future.

Many of the reasons why we were under pressure recently regarding social security was because so many women, particularly widows, have become dependent upon that one source of revenue as a means by which to take care of themselves in their senior years.

If we can provide those same women, who probably for the most part did not work through most of their life and, if they did, did not qualify for pensions, if we can provide them with an individual retirement account which permits them to plan over a 20-, 30-, or 40-year period of time for their futures, the quality of life for them will be substantially better. In the event they do face divorce, and considering that with over a third of those people married in 1971 today are divorced, it is a reality in modern life, at least they will have some independent source of income upon which to fall back as they grow older.

I cannot stress strongly enough how important I think this individual retirement is.

One other point, if I may, I understand that there may be some consideration within the committee of freezing some of those provisions of the 1981 Tax Act that have not yet gone into effect. I would like to speak to three components, and urge that you not consider freezing these three particular components.

One is the scheduled 1984 and after-year reductions in estate tax rates. There is nothing in my opinion that is more important that we can do to try to help stabilize our seniors' income than to permit those people who have been working-class people for a lifetime to hold onto those assets that they have had in their senior years. A change in this area would have a tremendously negative effect upon the senior women of our nation, and I feel that it is probably the single most important thing that we did in the 1981 Tax Act to help improve the quality of life for the American people, but particularly American women, since they outlive their husbands by an average of 8 years.

The second thing that I think is very important to our seniors is net interest exclusion under ERTA, 15 percent of interest income up to a maximum exclusion of $450 for singles and $900 for couples can be excluded, starting in 1985. Most of the money currently being held in savings is held by senior citizens. And I think it is very important that we retain that interest exclusion and see that it does go into full effect.

The third point—and I understand that the chairman of the committee has made some positive statements on it, but I just simply want to touch on it here—is indexing. Income tax indexing will save the average working woman who earns between $15,000 and $20,000 a year 14 percent on her tax bill. It is absolutely critical that income tax indexing be retained, and I would like to simply lend my personal support to the position of the chairman who says that this is one provision he does not plan to change, and I hope that the balance of the committee will support that effort as well as retaining these other two areas of tax reform so improtant to women's economic equality.

That is the conclusion of my testimony.

Mrs. **Kennelly**. Thank you very much for your excellent testimony.

Mrs. **Kennelly**. Congressman Green.

STATEMENT OF HON. BILL GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. **Green**. Thank you, Mr. Chairman. I have a formal prepared statement which I hope can be inserted in the record.

Mrs. **Kennelly**. Without objection.

Mr. **Green**. I would like to comment informally. I am here in support of the Economic Equity Act, and particularly the tax portions of it, the act having been broken down into its components to avoid the tangle of committee jurisdiction which would otherwise result.

It seems to me that those two portions of the Economic Equity Act I am addressing today, H.R. 1991, relating to dependent care, and H.R. 2099, the spousal individual retirement question really will help on the basic poverty problem that we are facing in this country today.

Unfortunately, poverty in this country is becoming very much a problem of female poverty. It really seems to have two categories, although they flow from similar origins.

First, the family breakup, which leads to the single adult headed family, and the problems of the woman who is typically heading that family in providing sufficient funds for the family while being responsible for dependents.

Then there is the problem of the widow or retired woman not widowed who for one reason or another, but typically lack of long-term connection with the employment system, has minimal resources in her old age because of the lack of much coverage under social security or a pension system, and therefore, is barely able to keep body and soul together.

I think essentially these two measures are designed to address those problems by expanding the provisions relating to work-related dependent care, and also by expanding the opportunity for the spouse to build up income under the IRA system.

So it seems to me that these two bills very much address the heart of the poverty problem in this country today, which, as I said, is so much a problem of female poverty.

I would finally make one further point on H.R. 1991, and that relates to the provision for care of the adult dependent living at home, typically to the elderly or the handicapped. Often such families have to make a wrenching choice between having one spouse give up a job to look after the adult dependent or putting that person in a medicaid-financed nursing home.

That is a choice that I do not think our tax laws ought to force on women. I think our tax laws ought to ameliorate that if they can, and I think to the extent that people are forced into nursing homes, paid for by medicaid, under the present law, to the extent that we can avoid that and provide for alternative arrangements which are less costly to the Government, we may actually come out ahead by providing tax benefits to deal with that situation.

Again, let me thank the committee very much.

[The prepared statement follows:]

STATEMENT OF HON. BILL GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I would like to express my pleasure in having the opportunity to address this hearing with my concerns regarding the tax and pension provisions of the Economic Equity Act. The Economic Equity Act is the major legislative package, concerning women, before this Congress. I am one of the original cosponsors of this omnibus bill—introduced on March 14, 1983 as H.R. 2090—which seeks to correct many of the economic inequities women face.

I would like to focus my attention on H.R. 1991, the Dependent Care bill in Title II and H.R. 2099, the Spousal Individual Retirement Accounts in Title I of this omnibus bill, both of which I have cosponsored.

H.R. 2099 is a particularly important piece of legislation as it addresses one of the problems faced by full-time homemakers. Their labor has the least economic and legal protection of all. A full-time homemaker's labor is not recognized as having any economic value. Economic discrimination is suffered during marriage, as well as after—whether the marriage ends by death or divorce—in Social Security, pensions, and credit.

This bill, introduced by Rep. Ferraro addresses the inequities in the current IRA system, which allows a higher-earning spouse to put away a sum of money for his/her retirement purpose and forces the lower-paid spouse to be dependent upon the good will of the higher-wage earner. The EEA would alleviate current legal barriers to the economic security of an unpaid or lower earning partner in a marriage. It would create the conditions to allow homemakers to better provide for retirement, by permitting a homemaker with no earnings or lesser earnings of her own to contribute to a spousal IRA as much as the earnings of her husband would allow. The maximum deduction permitted each spouse individually would be $2,000 a year. It also allows alimony and spouse support to be treated as compensation for the purpose of eligibility to open an IRA. Traditionally, alimony did not qualify as income for the purpose of IRA eligibility determination. Alimony is, however, often the sole or primary source of income for millions of women who lack sufficient earnings histories to qualify for Social Security and have no accrued pension or pension survivorship rights.

H.R. 1991, a bill to expand the existing work-related dependent care credit to target greater benefits to middle and lower income families, would also permit nonprofit dependent care organizations to qualify for tax-exempt status. I am pleased to be among its cosponsors. Child care and parenthood are a serious challenge for two-earner couples in today's economy. For many women it is an economic necessity to hold a job outside of the home. Many families find it necessary for both parents to work to achieve just a median income. (Twenty-seven percent of married working women have husbands who earn less than $10,000, 51 percent have husbands who earn less than $15,000.) Over 59 percent of women with children are employed. The situation is further compounded by the high incidence of divorce and the resulting explosion of single parent households. Close to 20 percent of children live in families headed by a single parent whose responsibility is not only financial support, but also the care and nurturing of the children. By expanding the existing work related dependent care credit provided in the 1981 Economic Recovery Tax Act, there is little chance that parents will be lured into the paid workforce—given that they are already there. The intended and more likely effect is that working families will purchase better quality care for their dependents. Fewer children will get "latch key" care or be left to look out for themselves after school. Expanding the dependent care credit is one way we can support these struggling families in their effort to meet both their economic obligations and their parenting responsibilities.

This legislation would also help low income families with elderly or handicapped adult dependents living at home. Often they must choose between having one spouse give up a job to look after the dependent or putting that person in a Medicaid-financed nursing home. The dependent care credit helps these families afford in—home or daycare assistance so their dependents can stay in the household. Expanding the credit would enable still more of them to avoid nursing home alternatives and keep the family together.

Mrs. KENNELLY. Thank you, again, Congresswoman Fiedler.

Thank you for your excellent testimony, Congressman Green.

Mr. Conable, do you have any questions?

Mr. CONABLE. No, but I would like to say I thoroughly appreciate the thoughtful statements you have both given. Thank you.

Mrs. KENNELLY. Mr. Duncan.

Mr. DUNCAN. I have no questions.

I want to thank our two good colleagues for being here.

Mr. GREEN. Thank you.

Ms. FIEDLER. Thank you.

Mrs. KENNELLY. The Honorable Dave Durenberger.

STATEMENT OF HON. DAVE DURENBERGER, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator DURENBERGER. Thank you, Madam Chair.

Mrs. KENNELLY. Thank you for coming to this side to testify before this committee. We appreciate it.

Senator DURENBERGER. Thank you for having me. I appreciate the opportunity.

I would like to make my full statement a part of the record.

I am extremely pleased that your committee is holding these hearings today. I want to compliment all of you, everyone I am seeing here today, and lots of others on the House side, who are committed to this issue and committed to the legislative solution.

Particularly, since we first put the original Economic Equity Act together and introduced it early in 1981, and then reintroduced it in 1983. But more than congratulating politicians, I think we all ought to congratulate the more than 32 national organizations and all of the private citizens out there who really have made the words economic equity a legislative, and in some sense, a political reality.

As I indicated, I introduced the Economic Equity Act on the Senate side first in April 1981; and 1981, because it was a tax year, was also a good year for the Economic Equity Act.

We made major reforms that year in child care, estate tax reform, which has been mentioned earlier, equal access to agricultural credit, the equitable treatment of military retirement pay in divorce proceedings, and several other components of the original comprehensive reform.

This year, again, without anybody blessing the Economic Equity Act as such, but everybody working very hard on economic equity, we on the Senate side have made a lot of progress on various elements of the act.

Last week those of us on the Finance Committee who have been involved in the pension reform section of the act introduced, S. 1978, which is, in effect, practically everything that we hoped to get in the way of pension reform.

It doesn't go all of the way that some of us would like to have gone, but it is far beyond what we thought we could do. Right now as we sit here—well, in 3 minutes, the Finance Committee is going to take it up in executive session and hopefully mark it up.

It proposes expanded survivorship benefits, lower ages for participation and vesting in pension rights, protection from loss of pension benefits for time taken away from work, particularly with respect to maternity or paternity leave, and pension protection in divorce cases.

All of the things that I think we really need to remedy economic inequity in the pension area are there.

Child support enforcement sort of dawdled along the first part of the year on our side. Russell Long spent a lot of time reminding us how long he has worked with it over the years.

With one of your colleagues taking over as Secretary of HHS, all of a sudden the administration woke up to the realities of child support enforcement. Now, we have a plethora of legislation, a lot of hearings, and hopefully, it will be a matter of days on the Senate side before we mark up some very significant, appropriate, and much needed changes in child support enforcement.

I know that you are on that same track over here, and I congratulate you for that.

In the area of regulatory reform, Bob Dole has S. 501, which is his effort at regulatory reform in this area, helped along by Barbara Honnengor. That one is presently in committee, as is nondiscrimination insurance which is title III of the Economic Equity Act.

I suspect title III will be moved by Senator Packwood, who is one of the principal cosponsors and the chairman of the Commerce Committee, as soon as they get a report from the General Accounting Office that they are waiting for and hopefully that will be marked up and moved out of the Commerce Committee yet this fall.

I recently introduced S. 1930, the public pension reform part of the Economic Equity Act, as a separate bill. This is in the Governmental Affairs Committee and is complementary to the reform we did in Foreign Service, CIA, and military retirement.

On the tax credit side, I guess the good news is that you have all been working hard on the administration. I see in this morning's Post the results of your efforts.

You have already heard from Buck Chapoton on all of this. I wish I had the ability to make all of you here on the House side members of the American Dental Association for all the tooth pulling you have done down at the White House. I certainly congratulate you for your efforts in bringing them along to the reality of IRA's and dependent care tax credits.

Hopefully we can also get the displaced homemaker tax credits as well.

I took this occasion, Madam Chair, to thank you and the members of this committee and to thank all the Members on this side of the aisle for never giving up on this issue. I thank you, too, for the progress that you have made in the Ways and Means Committee and your contribution to the tax issues.

I think the progress is tremendous. What we have been able to accomplish on the Senate side we could not have predicted a few months ago.

But I think it is all coming together. I thank you for the opportunity to be here today, and for permitting me to report to you from the other side of the Hill.

[The prepared statement follows:]

STATEMENT OF HON. DAVE DURENBERGER, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Mr. Chairman. I am extremely pleased that your Committee is holding this hearing today. I would like to commend you for your efforts in promoting economic equity for women. I would also like to salute the members of the House who have sponsored and cosponsored this legislation and who have worked so hard to make this legislation a reality. I would particularly like to recognize the members of the Congressional Caucus for Women's Issues for their Dedication to the Economic Equity Act.

Representatives Kennelly, Ferraro, Schroeder, Conable, Mikulski, and Dingell deserve particular credit for their leadership as sponsors of individual pieces of legislation which constitute the Economic Equity Act.

I have been very encouraged by the support the Economic Equity Act has received from the private sector. Thirty-two National Organizations have endorsed the Economic Equity Act and have labored many long hours to secure its passage. Thousands of individual have written to express their words of support for its passage—frequently to specify the many ways passage of this legislation would assist them in their efforts to achieve economic independence.

I am, however, very troubled by the Administration's reluctance to endorse this legislation. Although the Administration has indicated support of various provisions of the Bill, unlike hundreds of members of Congress of both political affiliations and these important national organizations, no endorsement of the entire package has been forthcoming from the Administration. I sincerely welcome the endorsement of the President and the Executive Branch.

The "Gender Gap" is a serious problem we in Government must address and it is, in large part, a product of economic inequity experienced by women, blessed by legislative endorsement, and exacerbated in times of economic difficulty such as we have been experiencing. The President's endorsement of legislation eliminating such discrimination would be a critical first step in overcoming the "Gender Gap."

The disparity that exists between men and women should shock the conscience of a nation founded upon the principle of equal opportunity. We have allowed women to work around the clock for our society, but turned our backs when the time came to reward their achievements. We have paid lip service to our belief that all are created equal. In practice in America, equal creation never meant equal treatment under the law.

In an effort to eliminate this economic discrimination, I introduced the Economic Equity Act in the Senate in April 1981. Although my name appears first on the Senate Bill, I was joined by a Bipartisan Coalition in both Houses of Congress.

The Economic Equity Act had a significant impact on the 97th Congress. Four sections of the Act—child care, estate tax reform, equal access to agricultural credit, and equitable treatment of military retirement pay in divorce proceedings became law. Although some of these changes did not go as far as we would have preferred, the bill was extremely successful in focusing public attention on the issue of an economic equity—a phrase that has now been popularized from journals to the President's State of the Union address.

In March, 1983, our bipartisan Coalition introduced the Economic Equity Act of 1983. This Economic Equity Act represents our continuing effort to remove economic discrimination by removing barriers to equal opportunity in tax and pension laws, insurance, child support enforcement, and legislative and regulatory reform.

Although none of the five titles of the bill have been formally enacted into law by both Houses of Congress, substantial progress has been made toward securing that objective.

Last week, in the Senate, we introduced a pension reform bill, S. 1978, modeled after the Economic Equity Act pension provisions and several other pension reform measures—such as those of Senator Dole, Senator Hawkins, Senator Kennedy, and the Admininstration. I was pleased that this bill included most of the private pension reform measures of the Economic Equity Act—expanded survivorship benefits; lower ages for particiaption and vesting pension rights; protection from loss of pension benefits for time taken away from work, particularly with respect to maternity or paternity leave; and pension protection in divorce cases.

While I would have preferred greater protection of survivorship benefits and benefit accrual for leave taken for maternity or paternity leave, I believe it represents great progress toward ensuring economic equity for women.

I have been troubled by the issue of child support enforcement for a number of years and it finally appears likely that action will be taken in the near future to strengthen child support enforcement.

Secretary Heckler, your former colleague, is to be commended for moving the Administration in the appropriate direction with respect to child support enforcement. Although I have reservations about the Administration's child support bill, it does recognize the importance of effective enforcement for both AFDC and non-AFDC families.

Mr. Chairman, I understand that your Committee is expected to act on comprehensive child support enforcement reform in the very near future. I commend you, and the members of the Subcommittee on Public Assistance and Unemployment Compensation, for your progress on this issue. I hope the Senate Finance Committee will follow your footsteps.

The Senate Judiciary Committee is currently considering legislation introduced by Senator Dole, S. 501, to remove gender-based distinctions that persist in the regulatory and statutory arenas. Certainly this regulatory reform was spurred by the public furor generated by Barbara Honnegar.

Non-discrimination in insurance, Title III of the Economic Equity Act, has been the focus of a great deal of public attention—thanks to the concentrated lobbying efforts of the insurance industry and women who have suffered from insurance discrimination. The Senate Commerce Committee is awaiting the final report of the General Accounting Office and markup of that legislation should occur shortly after its release.

In order to generate greater attention to the need for pension reform for divorced spouses of civil servants, I introduced the public pension reform measures of the Economic Equity Act as a separate bill, S. 1930. This measure is pending in the Governmental Affairs Committee. Because this measure is consistent with past legislative reform for Foreign Service, CIA, and military spouses, passage of this legislation should be accomplished early in the next session.

With respect to several of the tax measures, such as increased dependent care tax credit (Title II), displaced homemaker tax credit, and Homemaker IRAs, legislative action has not come as quickly as I had hoped. Unfortunately, $200 billion dollar deficits have made many Senators question the need for these changes. I believe such thinking is short-sided and beside the point. In many cases, these changes will eventually stimulate the economy by allowing women to become self-sufficient and employed outside the home. In other cases, it will help remove the penalties we have assessed against the millions of women who have toiled so hard in the home.

I strongly believe the most effective way for Congress to address the economic inequities confronting women, is to pass the entire Economic Equity Act, with all its reinforcing provisions. I urge the members of this Committee to keep in mind the fundamental purpose of the EEA—to ensure that the Federal Government plays a constructive role in removing obstacles to economic equity, rather than a destructive role of creating or even maintaining these obstacles.

One criticism I am certain will be raised today, and that is the charge that we cannot afford the Economic Equity Act. To that charge my answer continues to be, we cannot afford *not* to have an EEA. For two centuries of our history, women have borne the cost of economic inequity.

Mr. Chairman. Your Committee has historically been at the forefront of efforts to remove economic inequities. I urge you to continue that tradition. On behalf of all the individuals who have labored thousands of hours for the Economic Equity Act and the millions of women they represent, I request the Congress and the Administration to act quickly and fairly on this legislation. Society will benefit from the changes.

Thank you, Mr. Chairman, for your efforts and for giving me the opportunity to testify today.

Mrs. **KENNELLY**. Thank you, Senator.

We thank you for your leadership on this issue. As you say, those bills are moving along on a track you would not have thought possible some months ago.

Would you care to comment on what you think moves us along all of a sudden? It is interesting to see how with some bills, their time does come.

Congressman Conable.

Mr. CONABLE. Madam Chairman.

I would like to say your statement that tooth pulling was needed at the White House is belied by the toothy grins down here this morning. They are very pleased that they are onboard.

I would like to thank you for your leadership, also, Senator, and urge the continuance of the partnership that has moved this important legislation along as far as it has. It is, as the Chair says, an idea whose time has come.

There is consensus behind almost all these issues that are being moved now, and they have, I think, the full support of the broader women's movement out there.

Although there are elements that would like to see more progress, and I can understand, clearly we owe changing social patterns and the persistence of women of good will and perception in our labor force, to the motivations that are back of this movement.

I think we should congratulate everybody involved.

Mrs. KENNELLY. Mr. Duncan.

Mr. DUNCAN. Thank you, Madam Chairman.

I also thank you for coming to our committee. Do you have any idea what kind of track you are on the Senate side? Have you held hearings of any kind?

Senator DURENBERGER. Oh, yes. We held hearings on the Economic Equity Act this spring. We have also held hearings on various elements of it, because, for one reason or another, the administration has encouraged support for economic equity without supporting the Economic Equity Act.

As a result, we have a variety of bills. On the pension side, I indicated we had gone beyond the hearing stage, we are ready for markup. On child support enforcement, we have also gone beyond the hearing stage.

We are ready for markup there as soon as we can get a consensus. Those are the two major areas, plus whatever we may do with your tax bill when it gets over there.

I think we are ready to act on all of these in the larger sense, with the exception of regulatory reform, and we are ready for gender-free insurance, but I am not sure that the system is going to produce that.

Mr. DUNCAN. You are ahead of the House for once, aren't you?

Senator DURENBERGER. That is right.

Mr. DUNCAN. Thank you very much for being here.

Mrs. KENNELLY. Thank you.

The next witness is the National Women's Political Caucus, Catherine East, legislative director.

Thank you for coming and being with us this morning.

STATEMENT OF CATHERINE EAST, LEGISLATIVE DIRECTOR, NATIONAL WOMEN'S POLITICAL CAUCUS

Ms. EAST. Madam Chairman, members of the committee.

I am Catherine East, legislative director of the National Women's Political Caucus, a national multiparty membership organization. Our chair, Kathy Wilson, regrets she cannot appear today. Our 77,000-member organization is devoted to electing to public office women and men supporting our goal of full partnership for women in all our institutions.

We appreciate greatly the leadership of the Congressional Caucus for Women's Issues in promoting the Women's Economic Equity Act. Economic equity is an essential element in achieving our vision of a just society.

We support the Women's Economic Equity Act, which addresses many of the inequities in Federal laws and programs.

Our legal, economic, and social systems have traditionally undervalued women's contribution both in and outside the home. Furthermore, our tax laws, government training programs, employer practices, and our educational system to a large extent, reflect men's perspectives, needs and life styles.

This masculine orientation of our values and practices results in a disproportionate number of women in poverty, particularly elderly women and women heads of families.

Our present economic arrangements discourage women from homemaking and childbearing. If young women considered only the economic risks of marriages and childrearing, they would opt out to a much greater extent than they are. We are particularly pleased that many of the reforms you are considering will recognize women who are primarily homemakers as equal contributors to their marriages.

Contrary to public perceptions, our organization and others active in the women's movement, place a high value on homemaking and volunteer activities. After all, the reforms in State and Federal laws of the past 10 years have been brought about largely by homemakers who are free to lobby and work on civic reform.

We advocate that all laws be based on the principle that marriage is a partnership in which the contribution of each spouse is of equal importance and value.

The economic status of elderly women is one result of the lack of value accorded women's work, in and out of the home.

Fewer than 11 percent of women over 65 received private pensions and annuities in 1981—either as a dependent spouse or a paid employee, according to the Pension Rights Center. Nearly 28 percent of men over 65 received such pensions. Men received an average of $4,152 per year, women, $2,427.

Women represent 60 percent of the population over age 65, but are 73 percent of the elderly poor.

Many of the reforms proposed by the bills being considered by this committee, which will be discussed in detail by other witnesses, are designed to ameliorate the discrepancy in the economic status of elderly women.

The caucus is particularly concerned about the plight of families headed by women who are a rapidly increasing proportion of poor families. Twenty-one percent of all families are single parent families.

Half of all children in poverty live in such families. A number of the provisions of the bills being considered today address the problems of such families.

The National Women's Political Caucus has a special interest in the reforms directed to women not employed outside the home.

Our primary goal is to increase the number of women in elective and appointive office—women who support the goals of the women's movement. Most women in elective office have no other occupation outside the home.

The Center for the American Woman and Politics found, in a 1981 survey, that only about one-third of the women in elective office were currently employed outside the home, either full or part-time, in addition to elective office.

Many of these women will be dependent in their old age on pensions based on their husband's employment and/or their own IRA's. Some may be widowed or divorced before their children are grown.

The reforms proposed by the Women's Economic Equity Act may save from poverty some of these women who have devoted their lives to public service as homemakers, volunteers in civic endeavors, and public office holders. Thank you.

Are there any questions?

Mrs. KENNELLY. I have no questions.

Congressman Conable.

Mr. CONABLE. No questions, but let me say the name of Catherine East is a legend in my household. We are grateful for the leadership you have exercised.

Ms. EAST. Thank you, sir. Your name and your wife's name are legends in the women's movement.

Mrs. KENNELLY. Would you also tell Ms. Wilson we thank her this morning for her support and look forward to working with her on this project.

Thank you for your testimony.

[The prepared statement follows:]

STATEMENT OF CATHERINE EAST, LEGISLATIVE DIRECTOR, NATIONAL WOMEN'S POLITICAL CAUCUS

Mr. Chairman, Members of the Committee: I am Catherine East, Legislative Director of the National Women's Political Caucus, a national multi-party membership organization. Our Chair, Kathy Wilson, regrets she cannot appear today. Our 77,000 member organization is devoted to electing to public office women and men supporting our goal of full partnership for women in all our institutions.

We appreciate greatly the leadership of the Congressional Caucus for Women's Issues in promoting the Women's Economic Equity Act. Economic equity is an essential element in achieving our vision of a just society. We support the Women's Economic Equity Act, which addresses many of the inequities in Federal laws and programs.

Our legal, economic, and social systems have traditionally undervalued women's contribution both in and outside the home. Furthermore, our tax laws, government training programs, employer practices, and our educational system, to a large extent, reflect men's perspectives, needs, and life styles. This masculine orientation of our values and practices results in a disproportionate number of women in poverty, particularly elderly women and women heads of families.

We are particularly pleased that many of the reforms you are considering will recognize women who are primarily homemakers as equal contributors to their marriages.

Contrary to public perceptions, our organization and others active in the women's movement, place a high value on homemaking and volunteer activities. After all, the reforms in state and Federal laws of the past 10 years have been brought about largely by homemakers who are free to lobby and work on civil reform. We advocate that all laws be based on the principle that marriage is a partnership in which the contribution of each spouse is of equal importance and value.

The economic status of elderly women is a result of the lack of value accorded women's work, in and out of the home.

Fewer than 11% of women over 65 received private pensions and annuities in 1981—either as a dependent spouse or a paid employee, according to the Pension Rights Center. Nearly 28% of men over 65 received such pensions. Men received an average of $4,152 per year, women $2,427.

Women represent 60% of the population over age 65 but are 73% of the elderly poor.

The median annual income of women over 65 in 1981 was $4,757—$3,400 below the median annual income for men. The difference is greater than the data indicate, since 75% of older men are married and living with their spouses whereas a little more than a third of older women are in similar circumstances.

Eighty percent of the elderly living alone are women.

Many of the reforms proposed by the bills being considered by this committee, which will be discussed in detail by other witnesses, are designed to ameliorate the discrepancy in the economic status of elderly women.

The Caucus is particularly concerned about the plight of families headed by women who are a rapidly increasing proportion of poor families. Half of all children in poverty live in such families. A number of the provisions of the bills being considered today address the problems of such families.

The National Women's Political Caucus has a special interest in the reforms directed to women not employed outside the home.

Our primary goal is to increase the number of women in elective and appointive office—women who support the goals of the women's movement. Most women in elective office have no other occupation outside the home. The Center for the American Woman and Politics found, in a 1981 survey, that only about one-third of the women in elective office were currently employed outside the home, either full or part-time, in addition to elective office.

Many of these women will be dependent in their old age on pensions based on their husband's employment and/or their own IRA's. Some may be widowed or divorced before their children are grown. The reforms proposed by the Women's Economic Equity Act may save some of these women who have devoted their lives to public service as homemakers, volunteers in civic endeavors, and public office holders from poverty.

Thank you.

Mrs. KENNELLY. The first panel will come forward. Larry Gold, special counsel, American Federation of Labor and Congress of Industrial Organizations; Alan Reuther, assistant general counsel, United Automobile, Aerospace and Agricultural Implement Workers of America; and Geri Palast, legislative coordinator, Service Employees International Union.

Now that we have moved into the panel session of this hearing, I would like to suggest that we now go into the 5-minute rule.

So, if you would like to summarize your testimony, your full testimony certainly will be accepted without reservation and fully printed in the report.

Mr. Gold, you are the first witness.

STATEMENT OF LAURENCE GOLD, SPECIAL COUNSEL, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

Mr. GOLD. Thank you. I would appreciate the opportunity to outline the basic positions we take on H.R. 2090. I believe I can do so within the 5-minute rule.

The AFL-CIO supports the Economic Equity Act, H.R. 2090, and related bills with suggested modifications because this legislation would do much to eliminate the economic discrimination faced by working women and homemakers. It is not perfect, but it represents major progress toward the long-sought goal of ending discrimination in America.

ASSIGNMENT OF BENEFITS

We support the intent of the bills before this committee to clarify that State domestic relations laws and not the Employee Retirement Security Act govern divorce settlements involving pension benefits.

PERIODS OF EMPLOYEE SERVICE TAKEN INTO ACCOUNT

H.R. 2090 lowers the minimum participation age for private pension plans from age 25 to age 21. H.R. 2090 also provides for the crediting of service for a period when an employee has a break in service or approved maternity or paternity leave. These provisions should be enacted into law.

SURVIVOR BENEFITS UNDER PENSION PLANS

The bill attempts to deal with the problem faced by survivors of participants in defined benefit plans vested at their death, but for whom joint and survivor annuity protection is not available because the participant died prior to attaining the normal or early retirement date set in the plan.

Protecting spouses of pension participants who die in these circumstances is vital. However, expanding joint and survivor annuity coverage in the manner of the provisions in the Economic Equity Act would provide only minimal protection in the case of young or short service participants and could impose heavy costs on the plans. The committee may, therefore, wish to consider some modifications to better achieve the intended objective of protecting surviving spouses without imposing needless costs on the plans.

The AFL-CIO does support the provisions of H.R. 2090, which require the written consent of both participant and spouse to waive a survivor annuity option.

INDIVIDUAL RETIREMENT ACCOUNTS

H.R. 2090 permits a homemaker with no earnings or lesser earnings of his or her own to contribute to a spousal IRA. This proposal would benefit primarily highly paid professionals and would help very few homemakers in lower and middle income families. In addition, the proposal would result in substantial revenue loss. For these reasons the AFL-CIO does not support this portion of H.R. 2090.

TARGETED JOB CREDITS FOR DISPLACED HOMEMAKERS

H.R. 2090 would include homemakers under the targeted job tax credit program. The AFL-CIO opposes this misnamed program in its entirety as providing windfalls to many employers for employing workers they would have hired anyway and causing many of those employers to lay off workers and hire replacements in order to take advantage of the tax credit.

DEPENDENT CARE CREDIT

The AFL-CIO strongly endorses the Economic Equity Act's improvements in the child and dependent care tax credit. These improvements will provide some relief to working families whose incomes are so low they have no tax liability, will increase the credit to a more equitable level for other working families and will allow nonprofit dependent care organizations to qualify for tax exempt status.

EARNED INCOME CREDIT

We urge the Congress to adopt the provision of H.R. 1603 which would increase the earned income credit, thereby providing badly needed tax relief and income supplementation to allowing working families, and would eliminate the outrageously unfair provision which required that the tax credit be counted against AFDC payment on a monthly basis whether the family received that payment or not.

Thank you.

[The prepared statement follows:]

Statement of Laurence Gold, Special Counsel, American Federation of Labor and Congress of Industrial Organizations

On behalf of the AFL-CIO, I wish to thank you for the opportunity to present our views on the Economic Equity Act (H.R. 2090) and related bills that would amend various tax, pension, and related federal laws to prevent economic discrimination against women.

The AFL-CIO supports this legislation with suggested modifications because it would do much to eliminate the economic discrimination faced by working women and homemakers; it is not perfect but it represents major progress toward the long sought goal of ending discrimination in America.

At its October 1983 Convention, the AFL-CIO reaffirmed "its dedication to the elimination of all discrimination against women and recognizes the critical need for aggressive and vigorous actions to reach this objective," and urged passage of a package of federal legislation that included most of the items contained in the Economic Equity Act. Mr. Chairman, the AFL-CIO Resolution on Women's Rights is appended to this statement, and I respectfully request that it be made a part of the record.

Let me now turn to those aspects of the Economic Equity Act which are the focus of this hearing.

ASSIGNMENT OF BENEFITS

We support the intent of bills before this Committee to clarify that state domestic relations laws and not the Employee Retirement Income Security Act (ERISA) govern divorce settlements involving pension benefits. Some pension plans have refused to pay a divorced wife a portion of her spouse's pension benefit in spite of an order from a divorce court on the grounds that under ERISA where the plan prohibits payment of benefits to anyone other than the pensioner the plan prevails. Generally, the courts have held that Congress intended to protect pensioners from creditors and not to shield them from their family responsibilities. However, the Congress needs to clarify the law in order to spare divorced women the difficult and costly task of going to court to force plans to obey the orders of state courts.

PERIODS OF EMPLOYEE SERVICE TAKEN INTO ACCOUNT

The Economic Equity Act (H.R. 2090) lowers the minimum participation age for private pension plans from age 25 to age 21. Present law does not require plans to cover employees who are under age 25. A pension plan may exclude service prior to that age in determining credit for vesting.

The highest labor force participation among women is in the age 20-24 bracket. Since so many women work while they are in their early twenties and then leave work to raise families or work part time, these uncovered years before age 25 are important to them.

H.R. 2090 also provides for the crediting of service for periods when an employee has a break in service for approved maternity or paternity leave. Under present law, unpaid leave is normally not credited toward vesting. Time off for childbearing is one reason fewer women than men achieve vested pensions. This provision would therefore improve the chances of women to secure vested pension rights.

These provisions should be enacted into law.

SURVIVOR BENEFITS UNDER PENSION PLANS

The bill attempts to deal with the problem faced by survivors of participants in defined benefit plans vested at their death but for whom joint and survivor annuity protection is not available because the participant died prior to attaining the normal or early retirement date set forth in the pension plan.

Protecting spouses of pension participants who die in these circumstances is vital. However, expanding joint and survivor annuity coverage in the manner of this provision would provide only minimal protection in the case of young or short-service participants. On one hand, the result would be extremely small benefits which would be worthless by the time the surviving spouse reached the age of eligibility. On the other hand, administrative burdens on plans would increase greatly since records would have to be kept and periodic reports and information sent to these participants. The Committee may therefore wish to consider some modifications to better achieve the intended objective of protecting surviving spouses without imposing needless costs on pension plans. For example, the provision need not be applicable to young or short-service participants when employers or unions have arranged for adequate death benefits. In that event, the death benefit could be offset against the present value of the survivor's benefit. Particularly if that modification is made, it might also be desirable to limit the extension of such coverage to participants who had attained a stated minimum age.

The AFL-CIO supports the provision of H.R. 2090 which requires the written consent of both participant and spouse to waive a survivor annuity option. Statistics show that less than 40 percent of all married private pension retirees choose joint and survivor annuity options. More than 60 percent of them decide not to do so, leaving no benefits for their surviving spouses. This provision would avoid those tragic situations where a widow after 30 years of marriage discovers after her husband's death that her rights have been waived and she is not entitled to any pension benefits.

INDIVIDUAL RETIREMENT ACCOUNTS (IRA'S)

H.R. 2090 permits a homemaker with no earnings or lesser earnings of his or her own to contribute to a spousal IRA as much as the earnings of that person's spouse would allow. Each spouse would be allowed a maximum deduction of $2,000. Alimony and spouse support would be treated as compensation for the purpose of opening an IRA.

These proposals would benefit primarily higher income workers and high paid professionals, for the higher the individual's tax bracket, the greater the benefit. These groups are more likely to have spouses who have the option of not working and are in income brackets that enable them to put money in an IRA. The effect would be a windfall to high income couples by allowing them to save tax free an additional $2,000. This proposal would help very few homemakers in low or middle income families who live so close to the margin that they are able to save nothing or very little out of their incomes for this purpose.

In addition, the proposal would result in substantial revenue loss. During this period of large deficits and budget restraint this revenue loss could result in cuts in other important programs or increased taxes for low and middle income workers.

TARGETED JOB CREDIT FOR DISPLACED HOMEMAKERS

H.R. 2090 would include homemakers under the targeted Job Tax Credit Program and permit employers who hire displaced homemakers to take a tax credit equal to 50 percent of the first $6,000 of wages in the first year and 25 percent in the second year. An eligible homemaker would be one who has not worked in the labor force for a substantial number of years, has been dependent either on public assistance or another family member and such income is no longer available, and is a member of an economically disadvantaged family.

A number of targeted groups presently are eligible for a tax credit under the Job Tax Credit Program and if one accepts the premises of that program, extending eligibility to displaced homemakers, so many of whom experience difficulties in satisfactorily reentering the labor force, appears warranted. Indeed, there is an argument that this group is more deserving of inclusion than some of those already covered. But I need not enter into that debate for the AFL-CIO opposes the misnamed

Job Tax Credit program in its entirety as providing windfalls to many employers for employing workers whom they would have hired anyway and causing many of those employers to layoff workers and hire replacements in order to take advantage of the tax credit. When there are not enough jobs, a tax incentive that does nothing more than pit one group of the unemployed against the other is not the answer.

DEPENDENT CARE CREDIT

The AFL-CIO strongly endorses the Economic Equity Act's improvements in the Child and Dependent Care Tax Credit. These improvements will provide some relief to working poor families whose incomes are so low they have no tax liability by making the tax refundable, will increase the credit to a more equitable level for other working families, and will allow non-profit, dependent care organizations to qualify for tax-exempt status.

The Department of Health and Human Services reports that in 1981 there were 900,000 center-based and 5.2 million family child care places available. That is roughly 6 million places for the 22 million children under the age of 13 whose mothers are in the workforce. It is projected, that by the year 1990, this number will increase by over 7 million leaving nearly 30 million children under the age of 13 in need of care and additional millions of teenagers without after-school care.

Moreover, account must be taken of the equally serious and painful situation faced by millions of families and single middle-aged women caring for elderly or disabled relatives. There are an estimated 4.7 million disabled children in this country whose care requires enormous effort and expense. Additionally, there are some 8.4 million severely disabled adults (age 18 to 64) who are living with families, and untold elderly parents cared for by their children.

Improvements in the Dependent Care Credit will give some badly needed assistance to families struggling to adequately care for their children and simultaneously provide additional help to those families caring for aging or disabled dependents, reducing the extraordinary costs of institutional care.

EARNED INCOME CREDIT

We urge the Congress to adopt the provision of H.R. 1603 which would increase the earned income tax credit, thereby providing badly needed tax relief and income-supplementation to low-income working families, and would eliminate the outrageously unfair provision included in the Omnibus Budget Reconciliation Act (OBRA) which required that the tax credit be counted against the AFDC payment on a monthly basis whether the family received it or not.

Many of the working poor families entitled to AFDC payments and eligible for the tax credit never received the payment. Of those who did, many received the credit as a lump sum at the end of the tax year and not as a monthly payment which they could use to pay the rent or utilities, or to supplement food stamps when they run out at the end of the month. Reducing the income which the family may or may not get at the end of the year has worked an undue and unfair hardship on the poor and must be stopped.

CONCLUSION

In conclusion, women have less economic security than men because of longer life expectancy, restricted work opportunities, bias against women as workers and inadequate protection as dependents. The provisions of the Economic Equity Act which are the focus of this hearing do much to break down these barriers and to improve the economic situation of working women and homemakers by enhancing their prospects to qualify for pensions and to reenter the labor market. The AFL-CIO is pleased to support, with the modifications recommended, the passage of this landmark legislation.

[Adopted by the 15th Constitutional Convention of the AFL-CIO, Hollywood, Fla., October 3-6, 1983]

WOMEN'S RIGHTS

While women are a dynamic and growing segment of the American labor force in America, constituting about 43 percent of all workers, they are denied full social and economic opportunity by pervasive and entrenched sex discrimination. The result is that the incidence of economic hardship is greater for women than for men.

Female headed households represent 15 percent of all families, but half of all poor families.

Over 90 percent of all AFDC families are maintained by women.

Three-fifths of working women earn less than $10,000 per year and one-third earn less than $7,000 per year.

Eighteen out of the twenty lowest paid occupations are predominantly occupied by women. Older women and minority women are especially disadvantaged.

Seventy-two percent of the elderly poor are women. The poverty rate for black, elderly women is 43.5 percent compared with 9 percent for white elderly men.

About half of female-headed black families live in poverty, and the poverty rate for families headed by young, black women is a staggering 77 percent.

Black women earn 54¢ and hispanic women 49¢ for every dollar earned by men.

The AFL-CIO reaffirms its dedication to the elimination of all discrimination against women, and recognizes the critical need for aggressive and vigorous actions to reach this objective. We stand with the Coalition of Labor Union Women, women's organizations outside the labor movement, civil rights groups and all working to change laws, policies, institutions and attitudes to bring about equity and justice for all.

In order to promote and achieve women's rights, the following steps are essential:

The AFL-CIO urges participation by women trade unionists in all activities of their unions and in the activities of the Coalition of Labor Union Women.

A strong, consistent lobbying effort is needed to ensure a two-thirds vote to pass the federal Equal Rights Amendment in Congress and to ratify the amendment in 38 states legislatures afterward. Only a comprehensive federal amendment that will cover all states with a uniform standard of equal rights for women will make those rights as much a part of our democracy as the right to vote, freedom of speech and of the press.

The AFL-CIO urges its affiliated unions to work to attain pay equity through collective bargaining agreements that upgrade undervalued job classifications, and when a union determines that such factors as legal limitations or the employer's bargaining policy make it necessary, to seek pay equity through administrative and judicial redress.

A package of federal legislation must be passed that: Prohibits discrimination in insurance and pensions; Corrects the inequities in Social Security benefits for homemakers and women with interrupted careers; Provides more complete protection for women in private and federal civil service pension plans; Improves the tax credit for child care provisions of the 1981 Tax Act; Improves child support enforcement; Increases funding for Title XX day care services and for WIN as positive measures to enable poor women to become self-supporting; and Restores funding to other social programs including AFDC, food stamps, and Medicaid in which the Reagan Administration cuts have severely harmed women.

Mrs. KENNELLY. Thank you. Since we have a vote right now, I would like to recess the hearing until 11:25. We will resume.

[Recess.]

Mrs. KENNELLY. Thank you for your patience.

STATEMENT OF GERI PALAST, LEGISLATIVE COORDINATOR, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

Ms. PALAST. Thank you, Madam Chairman.

We want to thank you for inviting us to present our views on H.R. 2090, H.R. 1603, and related legislation which address the issue of economic equity in tax and pension law. As our union represents 750,000 public and private workers, over half of whom are women employed in service jobs, we have a vital stake in the issues before you.

I will try to summarize my remarks and submit the statement for the record.

The fact that women are clustered at the lower end of the income scale, 74 percent of all fully employed women earned less than $15,000 in 1980, means that such reforms will have significant benefits for women as well as low-income taxpayers in general. First, we support the earned income tax credit provision in H.R. 1093.

Because the credit has not increased since 1978 we have allowed inflation to erode the value of this credit to low-income people by at least 50 percent. Despite the across-the-board rate reductions in 1981, lower income taxpayers have actually experienced net increases. We can take one important step by expanding the EITC.

Next we absolutely support the dependent care tax credit and the proposal to make it refundable. This issue is critical to working women. Forty-six percent of all children under 6 have mothers in the labor force and 55 percent of all children under the age of 18 have working mothers.

The value of this provision is twofold; by easing the burden of child care costs it would enhance the ability of women to remain in or reenter the labor force. In addition, it is currently structured on a sliding scale so as to give greater benefits to those at the lower end of the income scale.

We think the credit should be refundable to aid families with low incomes and high child or dependent care cost who suffered most from inflation, rising tax burdens and reductions in spending on social welfare programs. We support increases in the credit.

As far as the head-of-household provision, we support proposals to increase the zero bracket amount from $3,300 to $3,400 and increase each succeeding bracket by $1,100.

In effect this would allow heads of households to be accorded treatment more similar to that—more applicable to married couples who file joint returns. Elimination of discrimination against heads of households, 69 percent of whom are women, is critical.

The change is needed.

On the targeted jobs tax credit, as to the proposal to expand this credit to include displaced homemakers, we think that the goal is laudable and we believe that they face significant barriers to reenter into the labor force. They should be included in any targeted program for workers.

However, we have reservations concerning this particular program and its ability to achieve this goal. Evidence suggests that this provision simply rewards employers for doing what they would have done with or without the tax credit and in the past we have rejected the credit approach in favor of direct employment and training programs.

We urge the committee to investigate more cost-effective options to promote employability of displaced homemakers.

I will quickly run through our other positions. As far as IRA, we are concerned about the inequity for the nonworking spouse. We are on record in opposing IRA's because they tilted the benefit of higher income groups and drain the Treasury. On the other hand, we feel since that program exists we ought to look into options to make it equitable but yet not put a further drain on the Treasury, and our statement goes into those areas.

As far as the pensions are concerned, we are highly supportive of the proposals that have been laid out because we feel that it is essential to take care of women in their elderly years to keep them out of the struggle in poverty. We support the periods of employment service and extending the coverage to those who go into the work force at a younger age.

We support the provision in H.R. 2090 so women are not forced to bear the brunt of bearing and raising a child through reduced pension benefits in their elderly years.

As far as survivor benefits in pension plans, ERISA contains several provisions that affect the status of women as survivors. The first provision we take issue with is the process by which only the participant and not the participant's spouse elects not to have a survivor annuity. The horror stories abound of scores of women who discover only too late after their husband's death that their annuity had been traded for a nonactuarily reduced pension benefit.

H.R. 2090 would ameliorate this situation by requiring written consent of both participant and spouse to waive the survivor annuity option.

Another provision that adversely affects survivors is ERISA's forfeiture of a survivor's benefit if the fully vested participant dies before reaching the early retirement age. We support the change in 2090 which requires pension plans to provide a survivor's pension to a person whose spouse worked at least 10 years under the plan regardless of whether he or she dies, unless both husband and wife agree to give up the survivor's pension.

We also want to correct the disparity impact on survivor benefits in the current ability to deny survivor's benefits if a spouse dies of natural causes within 2 years of choosing such benefits. H.R. 2090 would abolish this provision and we support it.

Again as Mr. Gold laid out, we also support the provisions regarding assignment of benefits of divorced women.

I am sorry we have had such a limited time today. Our written remarks can go into the specifics but we applaud your efforts and we thank you for the opportunity to appear.

[The prepared statement follows:]

STATEMENT OF GERI PALAST, LEGISLATIVE COORDINATOR, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

Mr. Chairman, members of the Committee on Ways and Means, I am Geri Palast, Legislative Coordinator, of the Service Employees International Union. I thank you for this opportunity to present our views on H.R. 2090, H.R. 1603, and related legislation which address the issue of economic equity in tax and pension law. As our union represents 750,000 public and private workers, over half of whom are women employed in service jobs, we have a vital stake in the issues before you.

Our union is reminded daily of the injustices that exist in our society as we work to achieve a measure of decency for our members. But our concern here today extends to all women, working and nonworking, single, married, divorced, or widowed, who face serious obstacles in achieving economic security.

Women comprise 43 percent of the labor force, up from 33 percent in 1960, yet continue to earn only 60 percent of the earnings of men. Trends in the composition of families illustrate a dramatic increase in the percentage of female-headed households. In 1981, women headed 18.8 percent of all families with children under 18 years of age, compared to 10.8 percent in 1970. And poverty rates for female households are now over five times as great as for husband-wife familes. Despite our efforts to achieve a measure of equity for all women, it is clear that much more needs to be done.

Provisions of the Economic Equity Act and related legislation amend major discriminatory aspects of our tax and pension laws. We applaud the efforts of the proponents of this legislation in developing a comprehensive set of reforms, designed to enhance the economic security of women.

TAX POLICY

The Service Employees International Union has long advocated progressive federal tax reform and supported efforts to increase the fairness of our tax system. We have been staunch proponents of changes that ease tax burdens on lower income taxpayers in order to guarantee that our system is, in fact, one that is based on the concept of "ability-to-pay." The fact that women are clustered at the lower end of the income scale—74 percent of all fully-employed women earned less than $15,000 in 1980, compared to 32 percent of all men—means that such reforms will have significant benefits for women in particular, as well as low income taxpayers in general.

Earned income tax credit.—SEIU is entirely supportive of the proposed increases in the Earned Income Tax Credit contained in H.R. 1603. The EITC first enacted in 1975 is designed to supplement the earnings of low income taxpayers by providing a refundable tax credit to those earning less than $10,000. But because the EITC has not been increased since 1978, we have allowed inflation to erode the value of this credit by at least 50 percent.

Despite the across-the-board rate reductions enacted in 1981, lower income taxpayers have actually experienced net tax increases. We can take one important step toward redressing this inequity by expanding the EITC and thus more effectively target assistance to those most in need. We urge the committee to act favorably on these proposals.

Dependent care.—H.R. 2090 contains provisions which would increase the child and dependent care tax credit and make it refundable. The value of this provision is twofold. By easing the burden of childcare costs, it would enhance the ability of women to remain in or reenter the labor force. In addition, it is currently structured on a sliding scale, so as to give greater benefits to those at the lower end of the income scale. We applaud Congress for recognizing the value of this tax provision when it increased the allowable credit in 1981.

SEIU believes that an important improvement in the targeting aspect of the credit should be enacted by this Congress. That is, the credit should be made refundable in order to aid families with low incomes and high child or dependent care costs. These are the families which have suffered most from inflation, rising tax burdens, and reductions in spending on social welfare programs.

We also support the proposed increases in the credit. Increasing the affordability of child care for lower and middle income families would remove a significant barrier to female participation in the labor force, especially for those women who must reenter in low-paying occupations.

As a partial offset to the additional cost of expanding support of dependent care, the Committee might consider a phase-out scheme similar in structure to that of the Earned Income Tax Credit. Under such a scheme, the credit would phase down to zero for families above a specified income level—beginning, perhaps, for those in the top fifth of the income distribution. SEIU would be entirely supportive of efforts to more effectively target our limited resources, recognizing the growing concerns over the magnitude of the current and projected budget deficits.

Heads-of-households.—H.R. 2090 and H.R. 2126 contain provisions to increase the zero bracket amount for heads-of-households from $2,300 to $3,400 and increase each succeeding bracket by $1,100. In effect, these amendments to the tax code would allow heads-of-households to be accorded treatment more similar to that now applicable for married couples who file joint returns.

SEIU wholeheartedly supports these efforts to eliminate discrimination against heads-of-households, 69 percent of whom were women according to 1980 Internal Revenue Service data. Since, by definition, a head-of-household unit has only one income earner and at least one dependent, the financial demands on this earner are substantially more than those of single individuals. And the income of heads-of-households is far less than that of married couples. In 1980, 88 percent of taxpayers who qualified as heads-of-households had income below $20,000, with an average adjusted gross income of $11,433. Under these circumstances, we urge the Committee to adopt the proposed head-of-household reforms.

Targeted jobs tax credit.—H.R. 2090 and H.R. 2127 propose to expand the jobs tax credit to include displaced homemakers. The goal of this proposal is laudable. The jobs tax credit is designed to provide incentives to employers to hire workers from disadvantaged groups and/or groups that may face discriminatory barriers in the labor market, thus enhancing their employment propects. SEIU firmly supports this goal and believes that as displaced homemakers face significant barriers to reentry into the labor force, they should be included in this targeted group of workers.

We do, however, have serious reservations concerning the effectiveness of the jobs tax credit in achieving this aim. Evidence suggests that this provision simply rewards employers for doing what they would have done with or without the tax credit. As a result, in the past we have rejected the tax credit approach in favor of direct employment and training programs. We urge the Committee to investigate more cost effective options to promote the employability of displaced homemakers.

Individual retirement accounts (IRA's).—Numerous pieces of legislation address various aspects of IRAs. At the outset, I would like to point out that SEIU did oppose the provisions of the 1981 tax act which amended the tax treatment of IRA contributions. We believe that allowing a maximum $2,000 deduction for workers' contributions to IRAs simply provides another tax shelter to upper income families, with no perceivable benefit to society. And the tremendous drain on the Treasury's resources added to the federal budget deficit, fueling the impetus to slash further into important domestic spending on programs which benefit the poor and the low income.

The fact is, however, that our current law discriminates against non-working spouses. While the maximum deduction for an income earner is $2,000, the maximum deduction for an income earner plus a non-working spouse is $2,250. Even under the most equitable distribution of contributions (a 50–50 split), the maximum deduction per person allotted to this husband and wife is $1,125, far less than the $2,000 maximum for other income earners.

I would like to propose that we investigate options that combine equity considerations and tax reform. One option would be to lower the maximum deduction to $1,125 for all individuals, regardless of whether or not they work. The revenue saved from lowering the deduction could then be used to finance the expansion to non-working spouses. Alternatively, another option would be to establish a tax credit for IRA contributions which would be available to non-working spouses, thus allowing for more effective targeting of this benefit.

PENSIONS

I would like to discuss some of the specific provisions regarding pension law changes contained in the legislation before you. In the last year, Congress has taken a very important first step in redressing some of the discriminatory aspects of the Employee Retirement Income Security Act (ERISA) of 1974. The passage of certain pension provisions in the Tax Equity and Fiscal Responsibility Act of 1982 now enables hundreds of thousands of women office workers employed in small businesses to earn the right to a pension. We support further efforts to enhance the retirement security of older women.

Although over half of all women are currently in the workforce, most pension plans do not meet their needs. These plans are designed to reward workers who experience low job mobility, fewer career changes, and high earnings. Women, however, are more likely to experience gaps in employment due to child-bearing and family responsibilities, lower earnings, and more frequent job changes.

Even when women are in covered employment, they are less likely to receive pension benefits. Under most pension plans, vesting provisions are ten years. A 1980 study shows that two-thirds of private pension plan members lose benefits because they do not work long enough to meet the vesting requirement. The impact of the recent recession and the resultant widespread job loss has dramatically increased the numbers of workers losing pension benefits. Currently, 1 out of 4 men and only 1 out of every 10 women over age 65 receive benefits from company and union pension plans.

For those women fortunate enough to receive pension benefits, the inequities between male and female benefit amounts are glaring. In 1981, the average private pension and annuity for a man was $4,152 annually, as compared with $2,427 for a woman. Furthermore, in 1981, the median annual income of women over 65 years of age was $4,757, or $400 above the official poverty level and $3,400 below the median annual income for men. The current legal structure of our private pension system reinforces and legitimizes women's future years as years of struggle and poverty. The only way to break this cycle is to redress the inequities at the point where they originate by enacting appropriate reforms in our pension laws.

Periods of employee service.—Under ERISA, employers are permitted to exclude workers under age 25 from pension plan coverage. According to Bureau of Labor Statistics figures, working women in the 20 to 24 year age bracket have the highest labor force participation rate—71 percent. Yet this ERISA provision effectively disqualifies women from accumulating years of service for pension credit and is especially disturbing when we consider the growing trend of women with young children to continue employment. A Population Reference Bureau study conducted in 1981 reported that the employment rate of women aged 25 to 34—prime childbearing and early child-rearing ages—increased from 43 percent in 1970 to 65 percent in 1980. SEIU supports the provision in H.R. 2090 that would change the ERISA age exclusion to extend coverage, at negligible additional administrative costs, to workers at age 21 and thereby benefit those workers who would otherwise be disqualified.

Break-in-service.—H.R. 2090 also addressed another provision of ERISA that discriminates against women. A break-in-service is defined by ERISA as a year in which the employee has worked less than 500 hours. While short breaks are not usually penalized, a break-in-service that equals or exceeds the last period of employment causes the worker to forfeit all prior credits towards vesting. These credits count not only toward vesting, but also count in the determination of the benefit amount. As mentioned earlier, it is more difficult for women than men to achieve vesting because of the higher incidence of job changes and career interruptions. Statistics show that the median number of years on a current job for women was 2.5 years, compared to 4 years for men. Furthermore, 17 percent of women have been employed at their current job for more than 10 years, compared to 28.7 percent of men.

H.R. 2090 recognizes the need to liberalize the break-in-service requirements so that women are not forced to bear the brunt of bearing and raising a child through reduced pension benefits in their elderly years. SEIU supports the provision in H.R. 2090 which would modify break-in-service regulations by assigning pension credit for 20 hours per week for up to 52 weeks of employer-approved maternity or paternity leave.

Survivor benefits under pension plans.—ERISA also contains several provisions that adversely affect the status of women as survivors. The first provision we take issue with is the process by which only the participant and not the participant's spouse elects not to have a survivor annuity. The horror stories abound—scores of women who discover only too late after their husband's death that their survivor's annuity had been traded for a non-actuarially reduced pension benefit. Even statistics support this grim reality. A Department of Labor survey reported that less than 40 percent of all married private pension plan participants who retired in 1978 chose joint and survivor annuity plans for their spouses. H.R. 2090 would ameliorate this situation by requiring written consent of both participant and spouse to waive the survivor annuity option.

Another provision that adversely affects survivors in ERISA's forfeiture of a survivor's benefit if the fully vested participant dies before reaching the early retirement age (55). This situation is most tragic when a fully-vested participant has worked all of his or her adult life and dies a few years or days before the retirement age—surviving spouse then receives nothing. H.R. 2090 would require pension plans to provide a survivor's pension to a person whose spouse worked at least 10 years under the plan, regardless of when he or she dies, unless both husband and wife agree in writing to give up the survivor's pension.

A similar ERISA provision that has a disparate impact on survivor benefits is the ability of plans to deny survivor's benefits if a spouse dies from natural causes within two years of choosing such benefits. Given that the average age of widowhood is in the mid-fifties, women are subject to great economic insecurity during this period if they are disqualified from receiving elected benefits. The rationale behind this ERISA provision is that "early selection" of survivor benefits could promote adverse selection and that retirement benefits are not to be used as life insurance. However, group life insurance, by its very structure and benefit amount, is not designed to substitute for retirement income as life insurance funds usually are exhausted in one or two years. H.R. 2090 would abolish this provision against early selection and affirm widow's rights to survivor benefits if the spouse dies within two years of the selection.

Assignment of benefits to divorced women.—Whether women are widowed or divorced, they suffer from laws and economic policy that fail to recognize marriage as an economic partnership and pensions as a form of property jointly earned by both partners. Divorced women are oftentimes denied a share of the pension even if a state court allows pensions to be considered as part of the divorce settlement. This situation is possible because ERISA prevents the payment of the pension to anyone but the retiree for purposes of protecting it from creditors. In some divorce cases, companies have refused court-ordered payments claiming that the ex-spouse is not the retiree, but, in effect, a creditor. In addition, current law holds that a spouse divorced after the starting date of an annuity loses survivor benefits.

Serious economic consequences for divorced women result from the nonassignment of pension benefits to ex-spouses. Upon divorce, a woman's income decreases an average of 73 percent, while a man's increases an average of 42 percent. These figures, combined with the fact that only 4 percent of divorced women receive maintenance payments from ex-spouses, clearly show the need for appropriate reform. H.R. 2090 recognizes that the question of marital property and pension asset assignment in divorce cases remains in the jurisdiction of the state law. However, the new provisions would add clarifying language which specifies that the anti-assignment provision currently in ERISA need not apply to divorce settlements. Therefore, pensions under the new provision would become a marital property right. Furthermore, spouses divorced after the annuity starting date would be protected from losing survivor benefits. SEIU supports these important reforms.

CONCLUSION

SEIU strongly supports the goals of the Economic Equity Act and related legislation now before the Ways and Means Committee. The tax and pension provisions we have discussed today will make major contributions toward insuring economic security for women in our society. We urge the Committee to act favorably on these reforms and again thank you for this opportunity to present our views.

Mrs. **Kennelly**. Thank you.

I will remind you that your full text will go in the record.

And it will be looked at.

Mr. Reuther.

STATEMENT OF ALAN REUTHER, ASSISTANT GENERAL COUNSEL, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW)

Mr. **Reuther**. The UAW wishes to thank you for the opportunity to appear before this committee to express our views on the Economic Equity Act.

We strongly support the Economic Equity Act and urge the members of this committee to give it prompt favorable consideration. Although we believe certain parts of this wide-ranging legislation need refinement, the act taken as a whole represents a positive long overdue effort to redress many of the inequities women currently experience in pension, tax and other areas.

I would like to focus on the proposals dealing with retirement and pension policy.

We support the provision of H.R. 2090 to require the written consent of both the participant and his or her spouse before a survivor annuity option can be waived. We believe it is only fair that the spouse should have a voice in whether the survivor option is waived since this is a valuable right which directly affects the interests of the spouse.

The UAW also supports the proposal in H.R. 2090 that extends the joint and survivor annuity rules to require pension plans to provide an option to the spouses of participants who die before reaching retirement age but are fully vested in their pensions.

We also support the proposal in H.R. 2090 that would make it clear that the provisions of ERISA prohibiting assignment or alienation of pension benefits do not apply to situations where a State court enters a judgment, order or decree in any domestic relations case which affects the payment of pension benefits as part of child support, alimony or marital property obligations.

The UAW strongly supports the provisions of H.R. 2090 to reduce the minimum age for participation in pension plans from 25 to 21 and to require that any service after age 21 be taken into account for vesting purposes.

These changes would help to eliminate the exclusionary provisions in some plans which discriminate against younger workers generally and which have a disproportionate and adverse impact on women workers.

The UAW also supports the provisions that would require pension plans to provide participants on maternity or paternity leave with 20 hours of service for each week for purposes of the vesting and benefit accrual rules.

H.R. 2090 would increase the limit for tax contributions to an IRA from nonworking spouses so that they may contribute the same amounts as higher earning spouses.

We share the concerns behind this proposal. As currently structured, the IRA limits discriminate against women who make up a majority of the nonworking spouses and spouses with lower earnings. However, we are concerned that the proposal set forth in the Economic Equity Act would also have the effect of increasing the aggregate revenue loss and income distribution inequities associated with IRA's.

We would therefore urge the members of the committee to explore alternate formulas which, while equalizing the contribution limits for working and nonworking spouses, do not increase the aggregate tax expenditures for IRA's.

One way this can be accomplished is by allowing nonworking spouses and spouses with low earnings to make contributions to IRA's based on the other spouse's earnings' but to lower the maximum amount any person can contribute to some level below $2000.

Although not part of the Economic Equity Act, a number of the other bills in this area such as H.R. 4032 also contain provisions to increase the allowable limit for mandatory lump-sum cash distributions by pension plans from $1,750 to $3,500. We question whether it is ultimately desirable as a matter of social policy to encourage distribution of pension assets in the form of lump sum cash benefits rather than life annuities.

The UAW urges the committee to provide some standards to govern the assumptions, particularly the interest rate assumptions, used in calculating lump-sum benefits. There has been an alarming increase in the number of cases where employers have used unreasonably high interest rate assumptions in calculating the lump-sums payable to participants in order to increase the amount of excess assets which ultimately revert to employers upon termination of a pension plan.

Often the lump-sum payments received by participants are not equivalent to the cost of individual annuities available to the participants on the open market because of these unreasonable interest rate assumptions.

I would ask that the rest of my statement be included in the record.

[The prepared statement follows:]

STATEMENT OF ALAN REUTHER, ASSISTANT GENERAL COUNSEL, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA [UAW]

Mr. Chairman, my name is Alan Reuther. I am an Assistant General Counsel for the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW). I speak on behalf of the more than one and one-half million active and retired members of the UAW.

I wish to thank you for the opportunity to appear before this Committee to express our views on the Economic Equity Act (H.R. 2090) and other legislation dealing with the issue of economic equality for women in various tax, pension and other related federal laws. The UAW strongly supports the Economic Equity Act, and urges the Members of this Committee to give it prompt, favorable consideration. Although we believe certain parts of this wide ranging legislation may need some refinement, the Economic Equity Act taken as a whole represents a positive, long over-due effort to redress many of the inequities women currently experience in pension, tax and other areas. We would like to commend those Members of Congress—particularly the members of the Congressional Caucus for Women's Issues—who have been involved in developing this comprehensive and constructive legislation.

Much has been written and said about the gap between the earnings of men and women, and the fact is that this gap has been getting worse, not better. Less well known, but just as pernicious, are the many ways in which our current pension and tax policies adversely affect women. Women currently suffer from pension policies that fail to recognize the contribution homemakers provide to an employee's ability to earn a pension, and the unique work patterns women often have as a result of childbearing and other family responsibilities. The inequities in the pension system fall particularly heavily on older women, who now make up 85 percent of all elderly persons living below the poverty line. Women also suffer disproportionately from our misdirected tax policies, which in many instances are skewed towards the most privileged segment of society, and provide too little assistance to those who need it the most—persons in the lower and middle income categories.

Our comments will be directed first at the various legislative proposals dealing with retirement and pension policy. We will then discuss the various proposals relating to tax policy.

RETIREMENT AND PENSION POLICY

Survivor benefits under pension plans

The UAW supports the provision of H.R. 2090 to require the written consent of both the participant and his or her spouse before a survivor annuity option can be waived. We believe it is only fair that the spouse should have a voice in whether the survivor option is waived. After all, the survivor option is a valuable right which directly affects the interests of the spouse. Often the survivor option provides the spouse with a major source of his or her income in later years. This would also help to avoid those tragic situations where a participant waives the survivor option, either inadvertently or without fully considering all of the implications, fails to consult or inform the spouse of this action, and the spouse only learns that his or her rights have been waived when the participant subsequently dies and it is too late to rectify the situation.

It is important to note that this proposal would not mandate that a survivor option be elected in all cases. The participant and spouse would still be free to waive the survivor option. This proposal would simply insure that both of the persons who are affected—the participant and his or her spouse—are consulted and participate in whatever decision is made. We would suggest that the Committee may wish to consider a technical amendment to provide some type of procedure in cases where the spouse is incapacitated or otherwise unable to make a decision on this matter.

The UAW also supports the provisions of H.R. 2090 that would extend the joint and survivor annuity rules to require pension plans to provide a survivor annuity option to the spouses of participants who die before reaching retirement age, but who were already fully vested in their pensions. This provision, known as a pre-retirement death benefit, would help to prevent the types of horror stories which have occurred where a participant who has lengthy periods of service with an employer dies shortly before reaching retirement age, and the spouse is left with no entitlement to any pension benefit. It is also entirely consistent with the thrust of present law, since it would merely require that a survivor annuity be offered once a participant obtains a vested benefit, rather than when the participant eventually retires.

Contrary to the protestations of the Administration and some employer groups, which have previously opposed this provision in testifying before other committees of Congress, requiring pension plans to offer a pre-retirement death benefit would not impose undue burdens on plans or employers, since the number of participants who die prior to reaching retirement age is relatively small. The UAW is disappointed that the legislation introduced by Representatives Conable and Erlenborn at the request of the Administration (H.R. 4032) fails to include any provision for a pre-retirement death benefit. We believe this is an important provision of the Economic Equity Act; we hope the Administration will reconsider its position on this point. We urge this Committee to include such a provision in any legislation which it may report.

H.R. 2090 also contains a provision which would repeal the section in the Employee Retirement Income Security act [ERISA] that currently permits pension plans to disallow the election of a survivor option, if the participant dies within two years after the election is made. The UAW has believed that this two year "waiting period" reflected an unwarranted concern about possible manipulation of the survivor election by participants. The pension plans which we have negotiated generally do not contain any such "waiting period", and we have not experienced any problems in implementing survivor elections made within this two year period. Accordingly, the UAW would welcome the elimination of this ERISA provision, as contemplated under H.R. 2090

Treatment of benefits in cases of divorce

H.R. 2090 would make it clear that the provision of ERISA prohibiting the assignment or alienation of pension benefits do not apply to situations where a state court enters a judgment, decree or order in any domestic relations case which affects the payment of pension benefits as part of the child support, alimony or marital property rights obligations of the parties. The trend of judicial decisions supports this interpretation. However, to remove any lingering uncertainty, the UAW believes it would be salutory to spell this out in new legislation. Certainly there cannot be any valid objection to the assignment or alienation of pension benefits in such cases, where it is the product of a reasoned, neutral court proceeding.

The UAW also sympathizes with the intent behind the provision in H.R. 2090 that would require pension plans to provide a survivor annuity option with respect to any surviving former spouse who was married to the participant at the time of his or her retirement, regardless of whether that person was the participant's spouse at the time of his or her death. It is too easy for the parties and the court to overlook a spouse's rights to survivor benefits, which may not be payable until many years in the future, when the couple's property is being disposed of in the course of a divorce proceeding. However, we believe that the proposal in H.R. 2090 needs to be amended to make it clear that this requirement can be modified, either by a court order or written, notarized agreement of the parties, which is provided to the pension plan administrator. The facts and circumstances surrounding the division of property in any divorce proceeding are far too varied to make any single rule workable in all situations. Therefore, in our judgement it would be preferable to allow the courts and the parties some flexibility to make alternative disposition of the survivor benefits, where this is warranted under all of the facts and circumstances.

Periods of employee service taken into account

The UAW strongly supports the provisions of H.R. 2090 to reduce the minimum age for participation in a plan from 25 to 21, and would require that any service after age 21 be taken into account for vesting purposes. These changes would help to eliminate the exclusionary provisions in some plans which discriminate against younger workers generally, and which have a disproportionate and adverse impact on women workers. There is simply no reason why a year worked by an employee at age 21 or 22 should be treated differently under a pension plan than a year worked at age 30, 40 or 50. We would not object, however, to allowing plans to extend this earlier coverage to participants retroactively, after they have completed a limited period of service such as two years, in order to ease the administrative burdens of plan administrators.

The UAW also supports the provisions of H.R. 2090 that would require pension plans to provide participants who are on maternity or paternity leaves, and who eventually return to work, with 20 hours of service for each week of such leave (up to a maximum of 52 weeks) for purposes of the participation, vesting and benefit accrual rules. These changes would help to redress the inequity currently experienced by women workers, whose pension benefits generally suffer when they are temporarily compelled to leave the workforce for pregnancy related absences. We would note that the other bills which attempt to deal with this issue (eg., H.R. 4032; S. 19), merely amend the participation and vesting rules so that a maternity or paternity leave does not result in a break in service; these bills do not provide for any credit during such leaves for benefit accrual purposes. While these bills represent a modest improvement over current law, the UAW believes that the provisions in the Economic Equity Act are decidedly superior, and accordingly we would urge the Members of this Committee to adopt the approach of H.R. 2090.

Individual retirement accounts

H.R. 2090 would increase the limit for tax free contributions to an IRA for nonworking spouses and spouses with low earnings, so that they may contribute the same amounts as higher earning spouses. The maximum deduction permitted each spouse would be $2,000. In addition, H.R. 2090 would allow alimony to be treated as compensation for purposes of the IRA limits.

The UAW shares the concerns behind these proposals. As currently structured, the IRA contribution limits discrimination against women, who make up the majority of nonworking spouses and spouses with low earnings. This needs to be rectified, so that women and men have an equal opportunity to provide for future retirement needs.

However, the UAW is concerned that the proposal set forth in the Economic Equity Act would also have the effect of increasing the aggregate revenue loss and income distribution inequities associated with IRSs. We would therefore urge the Members of this Committee to explore alternative formulas which, while equalizing the contribution limits for working and nonworking spouses, do not increase the aggregate tax expenditures for IRAs.

The UAW strongly opposes any expansion of IRAs. This is because we believe that they basically represent a tax avoidance loophole which disproportionately benefits persons in the upper income levels, because they necessarily entail a substantial revenue loss to the federal government, and because they are an ineffective means of stimulating additional national savings.

Unfortunately, our concerns have been borne out by the existing studies on the development of IRAs. A recent survey conducted by the Life Insurance Marketing and Research Association, Inc. found that the growth of IRA investment is expected to increase the national budget deficit by $11.2 billion in 1983 (because of the deduction of otherwise taxable contributions to IRAs)—$1 billion more than the $10.2 billion in additional savings which IRAs are expected to generate. These figures indicate that, in terms of increasing national savings, it would have been more effective for the federal government to have collected the taxes which were forgone because of IRA contributions, and made these funds available for investment (e.g., by reducing the amount of the budget deficit and resultant government borrowing). This conclusion is further stregthened when the tax losses to the States which allow IRA deductions are taken into account.

Another study by the Employee Benefit Research Institute found that the increased IRA participation resulting from the Economic Recovery Tax Act will result in revenue losses amounting to 11.9 and 14.3 billion in 1983 and 1984 respectively—more than 20 times as great as originally anticipated. This same study found that the participation rate of individuals was sharply skewed towards those in the upper income brackets—only 5 percent of the individuals with incomes below $15,000 participated in IRAs, as compared with 55 percent of those persons with incomes above $50,000.

It is worth noting that the revenue loss to the federal government associated with IRA contributions is roughly comparable to the amount of increased revenue contemplated for fiscal year 1984 by the budget resolution approved earlier this year. The Members of this Committee have been struggling to find ways to raise this additional revenue, without imposing unfair tax burdens on the average taxpayer. At the very least, this Committee should not make its choices more difficult by increasing the revenue loss associated with contributions to IRAs.

Accordingly, while the UAW strongly supports legislative action to eliminate the discrimination currently experienced by nonworking spouses and spouses with low earnings with respect to the IRA contribution limits, we would strongly urge this Committee to adopt an approach which does not aggravate the already serious budgetary and income distribution problems facing this country. One way this can be accomplished is by allowing nonworking spouses and spouses with low earnings to make contributions to IRAs based on the other spouse's earnings but to lower the maximum amount any person can contribute to some level below $2,000, so that the aggregate tax expenditure for IRAs is not increased. Turning the IRA deduction into a tax credit would also help to ease the distributional inequities associated with IRAs.

Increase in the limit for mandatory cash-out of benefits

Although not part of the Economic Equity Act, a number of the other bills dealing with various economic equity issues (H.R. 4032; S. 19) also contain provisions to increase the allowable limit for mandatory, lump-sum cash distributions by pension plans from $1,750 to $3,500. This proposal has nothing to do with economic equality for women. We question whether it should be made part of any legislation in this area. More importantly, even though this proposal might ease the administrative burdens of pension plan administrators in some cases, the UAW questions whether it is ultimately desirable, as a matter of social policy, to encourage the distribution of pension assets in the form of lump-sum cash benefits, rather than life annuities. If the central goal of our retirement policies is to assure, to the maximum extent possible, that retirees are provided with adequate income throughout their retirement years, surely this is furthered by encouraging benefits to be paid on the form of life annuities, nct lump-sum cash benefits.

Furthermore, the UAW urges the Committee to also provide some standards to govern the assumptions (particularly the interest rate assumptions) used in calculating the lump-sum benefits. As has been extensively documented in hearings before other committees of Congress, there has been an alarming increase in the number of cases where employers have terminated a pension plan, not for legitimate business reasons, but rather for the purpose of enabling the employers to obtain so-called "excess" pension assets, which revert to the employers upon the plan terminations. All too often in these cases, the employers have utilized unreasonably high interest rate assumptions in calculating the lump-sums payable to participants, in order to increase the amount of the "excess" assets which ultimately revert to the employers. In such cases, the participants are literally being compelled to take retirement benefits in the form of lump-sum cash benefits, rather than life annuities, since the payments are not equivalent to the cost of individual annuities available to the participants on the open market.

TAX POLICY

Targeted jobs credit for displaced homemakers

H.R. 2090 would amend the targeted jobs tax credit provisions under section 51 of the Internal Revenue Code so that employers would be able to get a tax credit of up to $3,000 for hiring a "displaced homemaker". This would include any person who has not worked in the labor force for a substantial number of years, has been dependent on public assistance or another family member and such assistance is no longer available, and is a member of an economically disadvantaged family.

The UAW has traditionally opposed proposals to provide tax credits to employers who hire unemployed individuals. Such proposals usually entail a substantial revenue loss to the federal government. And, because there is no effective means of preventing employers from taking the tax credit for hiring individuals who would have otherwise been hired or laying off existing employees in order to take advantage of the tax credit for hiring other individuals, these proposals would not be likely to result in a net increase in overall employment. Instead, we believe the end result would be that employers (and the consultants who make a living by advising employers how to take advantage of tax credits by manipulating their hiring practices) would simply wind up receiving a substantial tax windfall.

Nevertheless, the UAW is sensitive to the concerns underlying the tax credit proposal contained in the Economic Equity Act. Certainly the individuals who would qualify as "displaced homemakers" under the bill are just as deserving of government assistance as the other categories of individuals who are currently included under the targeted jobs tax credit program. The UAW therefore supports the intent behind this provision of H.R. 2090, and urges this Committee to explore other mechanisms for providing employment and training assistance to displaced homemakers, besides an employer tax credit.

Heads of households

The UAW supports the provision in H.R. 2090 that would increase the zero bracket amount for single heads of households from $2,300 to $3,400, the same as that for joint returns. The current differential in the zero bracket amounts for single heads of households and joint returns has a discriminatory impact on women, who comprise a disproportionate number of the individuals who qualify as single heads of households. In addition to redressing this inequity, increasing the zero bracket amount for single heads of households would help to compensate for the fact that the personal exemptions have not been increased in line with inflation, and would wind up helping those who need assistance the most—families with lower incomes.

H.R. 2090 would also increase each succeeding bracket amount on the rate schedule for single heads of households by $1,100, so that the rate schedule is identical to that for joint returns. Although there is some merit to the notion that the two schedules should be identical, we are troubled that adding $1,100 to all bracket amounts would provide tax benefits to some persons in the upper income categories and would aggravate the already swollen budget deficits. As an alternative, therefore, this Committee may wish to explore the feasibility of making a smaller adjustment or no adjustment at all in the bracket amounts in the upper income levels.

Dependent care

H.R. 2090 would make a number of important changes relating to child and dependent care. It would increase the amount of the tax credit available to lower and middle income persons, both by making the tax credit refundable, and by increasing the maximum credit percentage from 30 to 50 percent for lower income persons and then gradually phasing down this credit more slowly until it reaches the current level of 20 percent for persons earning $40,000. It would also allow certain organizations providing work-related dependent care to be eligible for tax exempt status, and would establish a federal grant program to provide seed money to community based clearinghouse for child care information and referral.

The UAW strongly supports these proposals. In particular, we commend the sponsors of the Economic Equity Act for attempting to redirect the thrust of the existing tax credit, so that greater assistance is provided to those who need it the most—lower and middle income families. Making the tax credit refundable is especially important, since under current law many lower income families cannot take advantage of the tax credit because they do not earn enough to have any tax liability.

The UAW believes, however, that the proposal contained in H.R. 2090 does not go far enough, and that as a matter of simple equity the tax credit should be gradually phased out for those families earning more than $40,000. (For example, the straight line progression contained in H.R. 2090 could be extended, so that the amount of the tax credit is gradually reduced to zero for families with an income of $60,000 or above.) There cannot be any justification for providing assistance with child care expenses to the wealthiest members of society; their ability to join the work force is not likely to be affected by the availability of such assistance. More importantly, it is fundamentally inequitable to provide the wealthiest members of our society with tax credits, when we are experiencing record budget deficits and have already cut essential human needs programs to the bone. Phasing out the department care tax credit for persons in the upper income categories would help bring in additional revenue to the federal government, which could in turn be used to help pay for the extra costs associated with increasing the tax credit available to lower and middle income families and making it refundable.

We recognize that it may be politically expedient to provide tax expenditures to the wealthiest members of society. This insures that an articulate constituency is given a vested interest in defending the particular tax expenditure. The UAW submits, however, that as we move further in this direction, we are in danger of creating a two tiered society in which tax expenditures, such as IRAs and child care tax credits, are increasingly showered on the comparatively privileged segment of the population. At the same time, the least privileged segment of the population finds that these same tax expenditures are not available to them in practice, and that essential public services on which they must depend for a minimum standard of living are constantly being slashed due to budget crises created in part by the revenue loss associated with the tax expenditures. The UAW urges the Members of this Committee to resist this course of action, and instead to structure tax credit programs so they are directed at those who are most in need of assistance. Because the dependent care provisions of the Economic Equity Act represent a positive step in this direct, the UAW strongly endorses these provisions.

Earned income credit

One of the other bills dealing with economic equity issues, H.R. 1603, would increase the earned income credit for certain working families with dependents, and would provide that such payments are not to be counted in advance for AFDC purposes. The UAW wholeheartedly supports this proposal. Because the earned income credit was not adjusted as part of the tax legislation enacted in 1981, it has not kept pace with inflation. H.R. 1603 would simply compensate for this past neglect by increasing the earned income credit in an appropriate manner.

CONCLUSION

The UAW applauds those Representatives—and especially the members of the Congressional Caucus for Women's Issues—for their leadership in developing the provisions of the Economic Equity Act. It represents a constructive approach towards dealing with many of the inequities currently experienced by woman under our present pension and tax policies. The UAW hopes that this Committee and Congress will move expeditiously to pass the various pieces of this legislation.

Mrs. **Kennelly**. Thank you, Mr. Reuther.

Thank you, panel.

The Senate and administration pension bills both allow a person to cash out an employee's pension benefit without the employee's permission when the present value is less than $3,500.

That is an increase of $1,750. I understand you have concerns about the method for determining present values. Could you or would you elaborate on that?

Mr. **Reuther**. One proposal that we would suggest, if this limit is going to be increased, is that some standards be set on the allowable interest rate assumptions. One proposal would be that in situations where the participant is not given the option to have an annuity, the plan administrator should be required to use interest rate assumptions normally used under the pension plan, and in any event an interest rate that does not exceed the rate used by the pension benefit guarantee corporation.

We think this approach would assure that unreasonably high interest rate assumptions are not used in such cases.

Mrs. **Kennelly**. Thank you.

With the next question I have, anyone who would like to respond, please answer.

You have heard, I believe you were all in the room, Mr. Chapoton's testimony on targeting the dependent care credits. Would you be prepared to comment on that new proposal?

Ms. **Palast**. I think you would have to elaborate on that proposal, Congresswoman; I don't think all of us were here.

Mrs. **Kennelly**. It is the way—if you were not here—the dependent care tax credit would be zero if the couple's income was $60,000. It is to increase the credit to $40,000 and then go down. We just heard it, too; if you would prefer to answer for the record, fine.

Mr. **Gold**. I am not familiar with the administration's proposal. There is a need to do something with the dependent care credit so you phase it down above $40,000; it should be a rapid phasedown that would make sense and save money, and that would allow more money for the lower income people in this area.

Mrs. **Kennelly**. My concern is not obviously—I want the lower income person to be able to have the tax credits so they can work and have good care for their children. With salaries such as they are today when $30,000 some years ago may have been a massive amount of money, often with two salaries today you come up with $60,000, and I have fears that individuals may not be able to carry out the jobs if they don't have adequate child care and they can only have that child care if they have tax credits.

That is the thrust of my concern.

Mr. Chapoton just told us about the proposal, too, so we will have to look at it carefully.

Because you are with us, Geri, and have experiences that many other groups don't have, since your union is predominantly women, could you give us some figures and just a little more information on the typical wages earned by your members and the jobs they are in and what you perceive as the critical economic issue facing them today?

We are doing such a broad overview of everything today, we are all pleased that things are moving, but I know the moment will come when we will have to set priorities. So if you would address the particular concerns of your union since we don't have anyone else with exactly that type of group.

Ms. PALAST. Thank you, Congresswoman.

Service Employees represents almost the woman who is the classic example of the woman taking the first step out of the poverty area, the feminization of poverty as we have all heard.

We represent the clerical industry, 80 percent female; health care which is 89 percent female; the service industry, 62 percent female; nurses which are 97 percent female.

The overall average for a service worker is $12,000 a year. So you can imagine that these women are really taking their first step out of the home and into the work force and into economic independence. That is why our focus on the tax issues initially is very critical for us.

You raised the child care issue. The statistics I raised about the fact that 55 percent of children of 18 and under have working mothers, it is clear that child care is the No. 1 one concern of our members in this regard.

They bargain over it, they are willing to trade wages or benefits for it, because that is the critical issue.

So I think if you are looking to prioritize, child care is a key issue.

Because these folks are at the low end of the economic spectrum and because they are not the beneficiaries of the 1981 Tax Act, I think this is the time to make those taxing changes that really preserve economic equity for people at the lower end of the scale.

Much of the discussion in the pension area really talks about spousal rights but in fact I think that the taxing provisions really deal with the independent woman in the work force.

So I just want to make sure that this is not lost in the shuffle.

Mrs. KENNELLY. Would you have any comment on Buck Chapoton's presentation this morning where he would bring up the zero bracket amount partway from the single and married couple amount?

Ms. PALAST. I believe that the situation—we quoted some statistics in our testimony—on the head of household and where she is in the economic spectrum—normally it is she—let me turn to that.

Sixty-nine percent of head of households are women. Eighty-eight percent of taxpayers who qualified had income below $20,000 with an average adjusted gross income of $11,433.

I think when you are talking about a situation where you are talking about a single parent with at least one dependent who is responsible for the lives of herself and these people, that you need the full amount. I don't think that that is something that we would want to compromise on given the level of earnings.

Mrs. **Kennelly**. Would it be worth compromising if we would stay where we are rather than getting half a loaf?

Ms. **Palast**. You know, getting something or nothing? All of us would like to get something out of this. At this time, we would look to see if there are different agreements we could make.

When you are talking about protecting the income of the lowest level, you have to realize they buy their bread with that.

Mrs. **Kennelly**. Mr. Pickle.

Mr. **Pickle**. Thank you, Madam Chairman. I don't have any questions.

I appreciate the testimony that the witnesses have given us. I think it will be is very helpful.

Mrs. **Kennelly**. Mr. Duncan.

Mr. **Duncan**. Thank you. I have no questions.

I want to thank you all for coming.

Mrs. **Kennelly**. Thank you very much.

Mr. **Duncan**. Madam Chairman, may I ask unanimous consent that Representative Lynn Martin be able to enter her statement in the record?

Mrs. **Kennelly**. Without objection, of course.

[The statement of Mrs. Martin follows:]

STATEMENT OF HON. LYNN MARTIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

I am pleased to have this opportunity to present my remarks on the subject of Individual Retirement Accounts (IRA's), and in particular about extending this franchise via legislative means to many Americans currently unable to participate in this program.

Tax advantages offered to those in the American labor force have encouraged retirement savings through IRA funds to a remarkable extent. Many who otherwise would be dependent solely upon Social Security and other government-financed programs in their later years are setting aside portions of their current wages with an eye toward a more financially stable lifestyle than would otherwise be possible. By enabling our workers to defer paying taxes on a portion of their wages, the Congress has provided a positive incentive which has encouraged fiscal responsibility and long-term planning by individuals.

Unfortunately, a sizeable portion of the American population was either inadvertently overlooked or brushed aside in the haste to pass IRA legislation. In the past decade legislators in increasing numbers have recognized the principle of economic partnership for married couples. Women who have worked inside their homes or in their communities without financial compensation are recognized for the significant roles they play in the family. Although these women may not contribute directly to increasing the family's bank balances, they raise the children, keep up the home, volunteer in community activities, and otherwise contribute to the overall life of the family, enriching and enhancing other family members. Just as the working husbands gain from the actions of the non-working wives, so the women are entitled to gain economically from the husbands' earnings.

Current IRA guidelines fail to fully recognize this principle of economic partnership in marriage, and non-working spouses are considered non-equals in setting up and contributing to IRA investment funds. While a worker may contribute up to $2,000, tax deferred, to his IRA in a given year, the couple together may contribute a mere additional $250. Whereas a double-income couple can save $4,000, $2,250 is the most a single-income couple may store away with the IRA tax benefits in a given year.

The cost of retirement for both the single- and double-income couples will be the same. Two must be housed, clothed, and fed in each instance. Retirement benefits from previous employment will clearly benefit the two-income family more. If the non-working wife desires to put money into an IRA from her own savings, should she be discouraged? If the working husband has the ability to save up to $2,000 per year for his wife's retirement, should he be discouraged?

Clearly, if our goal is to encourage our people to help themselves plan for their older years, if we want to ease the massive pressure on our nation's public income-security systems, and if we believe in enacting legislation which is proactive toward the cause of equality and fairness for women and men, then we have no choice but to enthusiastically correct IRA regulations as they pertain to non-income earning married women and those who are in the labor force for only short periods of time each year.

A woman receiving alimony payments or income upon the death of her spouse should be encouraged to contribute to an IRA for her retirement, if at all possible. Current regulations and law refuse to recognize the importance of having these groups, albeit perhaps unemployed, begin thinking and planning for their retirement years.

It's difficult for me to accept as a problem the fact that fixing our current inequities in the IRA program is going to cost money we would otherwise see in the form of additional tax revenues, even if the amount is minute in the federal budget. By foregoing this short-term benefit, though, we will be taking an important, needed, constructive step in encouraging all Americans, regardless of employment status and domestic situation, to responsibly invest in their own futures.

And at the same time we can relish the fact that we are doing the right thing.

Mrs. **Kennelly**. The next panel will consist of the American Association of Retired Persons, National Federation of Business and Professional Women's Clubs, Women in Employee Benefits, and American Association of University Women. Thank you very much for joining with us and sharing with us your knowledge.

I would call on Judy Schub, director of the National Federation of Business and Professional Women's Clubs, to begin.

STATEMENT OF JUDY SCHUB, DIRECTOR OF PUBLIC POLICY, THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

Ms. **Schub**. Thank you.

Good morning. I am Judy Schub, director of public policy for the National Federation of Business and Professional Women's Clubs, now known as BPW/USA.

Today we have a membership of over 150,000 women and men living in all 50 States with at least one local organization in every congressional district. Since its establishment 64 years ago, the objectives of the federation have remained the same—to promote full participation, equity and economic self-sufficiency for working women.

We appear before you today to support title I of the Economic Equity Act, legislation which is identical in part to H.R. 2100. We do endorse the entire Economic Equity Act, but we will concentrate on the private pension reform aspects of the Economic Equity Act.

The provisions in the EEA are extremely important in the continuing struggle to achieve economic equity for all women. Most women—single, married, divorced or widowed—face major obstacles to economic security in their later years. We will confine our remarks to current practices which directly affect employed women. This is not to imply that the problems of homemakers who are dependent on their spouses for financial security are not important. In fact, most employed women will never receive any pension benefits in their own right and must depend on their spouses for retirement income. Therefore, changes in law which increase spousal protection will also help working women.

Women today make up over 40 percent of the labor force, yet most pension plans do not meet their needs. Pension inequity is not a simple issue. The reasons for it are myriad and interrelated.

First, the average woman still earns only 59 cents for every dollar of the average man's earnings. Obviously, lower wages mean lower pension benefits—and many times no pension at all.

Second, women continue to be disproportionately represented not only in the lowest paying jobs but also in the occupations with the lowest number of pension plans. Further, the highest labor force participation for women is from 20 to 24 years old, and yet, under ERISA, employers are not required to cover employees until they are 25 years of age.

In addition, women are more likely to work part-time or part-year, and so may not meet ERISA standards for the year of service. Since more than 70 percent of the part-time labor force is female, this requirement has a disproportionate negative effect on working women. Also, women often have shorter job tenure than men. An employee must work a specified period under a pension plan before their benefits are vested.

The most commonly adopted vesting schedule is full vesting only after 10 years of service. In 1981, only 17 percent of women had been on their current jobs for 10 years. Therefore, most women in covered employment never receive pension benefits because they lack vested rights.

Finally, women are more likely to leave their jobs to tend to traditional family responsibilities. Such breaks in service can limit the total pension credits earned and even cause the loss of previously earned credits.

H.R. 2090 addresses several of the problems which lead to inadequate or no pension benefits for working women. It lowers the age of participation from 25 to 21. It also modifies the break in service rules by allowing an employee up to 1 year away for maternity or paternity leave with that time away counting toward vesting and the amount of pension.

This provision helps reduce the penalty that women face when they leave the labor force to bear children. However, we feel that this credit should also be allowed for employees—again, most often women—who leave the work force to care for a disabled spouse or parent. Like years of military service, years spent fulfilling traditional family responsibilities should be allowed in figuring pension credits.

We feel that the provisions in 2090 are crucial first steps toward correcting the inequity women face. However, further changes are needed. We strongly believe that ERISA should be amended to require fewer years for full vesting. Current pension plans rely on forfeiture of benefits by short-term workers, most likely women to subsidize benefits for longer service employees, most likely men. Substantially lowering the minimum service requirements for vesting would eliminate this inequity and assure all workers of their rights to the pension they have earned.

Also, portability of vested pension credits from one plan to another is needed. With lower vesting requirements, portability is necessary so workers do not have small accrued benefits scattered in several different plans.

Significant steps must be taken to eliminate the discrimination against women implicit in the present system. We urge your careful consideration and support of the legislation under scrutiny today. We believe it is only a first step, but it is an important step.

Thank you.

[The prepared statement follows:]

STATEMENT OF JUDY SCHUB, DIRECTOR OF PUBLIC POLICY, THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC. (BPW/USA)

The National Federation of Business and Professional Women's Clubs, Inc. (BPW/USA) was founded in 1919 to improve the status of women in the workforce. Today, BPW/USA has a membership of over 150,000 women and men, living in all fifty states and the District of Columbia, Puerto Rico and the Virgin Islands. There are over 3,500 BPW/USA organizations across the nation, with at least one organization in every Congressional district in the United States. Since its establishment over 64 years ago, the objectives of the Federation have remained the same: to promote full participation, equity and economic self-sufficiency for working women. In keeping with these objectives, BPW/USA has worked for over a decade to make the private pension system more responsive to the needs and work patterns of American women.

We appear before you today in support of H.R. 2100, The Private Pension Reform Act of 1983. This legislation is one of the important first steps in the continuing struggle to achieve economic equity for all women. BPW/USA sees the passage of the provisions in this bill as one of our highest legislative priorities this year. Therefore, we urge your careful consideration and support of H.R. 2100. All women—single, married, divorced, or widowed—face major obstacles to economic security in their later years. We realize that the problems of homemakers who are financially dependent on their spouses for adequate retirement income are also important. However, as an organization representing working women, we will concentrate on those pension issues which directly affect employed women.

In 1981, 47 million women had jobs, accounting for 43 percent of the total labor force. Although 53 percent of all women are in the workforce, most pension plans do not meet their needs. Present pension systems reward workers who have a steady career, with low job mobility and substantial earnings. The typical woman worker, however, has a very different employment pattern. She changes jobs more frequently, has gaps in her employment record due to family responsibilities, and earns less than the average man.

Women's special employment patterns often make them ineligible for private pension plans. A report by The President's Commission on Pension Policy (August 1980) revealed that "men continue to be covered by pension plans more frequently than women. In 1979, 50 percent of men compared with 31 percent of women were covered." Even when women are in covered employment, they are less likely than men to actually receive a pension benefit upon retirement. In 1981, 27.7 percent of men aged 65 and over received a private pension or annuity, while only 10.5 percent of women this age did. Moreover, the average male retiree receives benefits 40 percent higher than the average female retiree. In 1981, the average private pension and annuity for a man was $4,152 annually, as compared to $2,427 for a woman. In summary, women are less likely to be covered by a pension plan, they are less likely to receive a pension benefit, and when they actually do receive one, it is much lower than the average man's benefit.

Such differences help explain why the poverty rate for elderly women is 60 percent higher than for elderly men. In 1981, the average total income for men over the age of 65 was $8,173 per year, while for women it was only $4,757. According to the Gray Panthers, "nearly one-third of all older Americans live in poverty and 72 percent of them are women." After working much of their lives, far too many women find their "golden years" a struggle for survival. While relatively few men depend on Social Security as their only source of income in retirement, 60 percent of all women over the age of 65 who live alone or with an unrelated individual do. Social Security benefits alone are rarely adequate, but very few women (because of wage discrimination throughout their lives) have the savings necessary to provide them with a decent retirement income.

Private pensions, particularly for women, are a critical and increasingly necessary component in maintaining an adequate standard of living at retirement. Pension benefits are too crucial to the economic survival of women to let the present system go unreformed. Until the millions of employed women in America have access to adequate private pension benefits, they will continue to make up a disproportionate number of those living in poverty.

Pension inequity is not a single issue. The reasons for it are myriad and interrelated:

Women earn less than men.—The average woman still earns only 59 cents for every dollar the average man earns. Figures from the Bureau of Labor Statistics (BLS) show that in 1981, the median income of full-time working men was $20,682, compared to a median income of only $12,172 for full-time working women. Women are much more likely to be in the lower salary ranges even if they are in the same job categories. For example, in the managers/administrators job category, white men in 1980 had median earnings of $25,000 while white women had median earnings in this category of only $13,505. (Black and Hispanic men and women had somewhat lower median earnings in this category, but regardless of race the median earnings were substantially lower for women.) Lower wages mean lower pension benefits, and many times no pension at all. Only 10 percent of workers making under $5,000 annually were covered by pension plans in 1979, and 93 percent of non-covered workers made under $20,000. In contrast, 78 percent of workers over $25,000 were covered.

Women are clustered in occupations and companies that are less likely to provide pension coverage.—Again, only 31 percent of the women in the private workforce in 1979 were covered by pension plans (as compared to 50 percent of the men.) This is often due to the types of jobs women hold. Women continue to be disproportionately represented both in low-paying jobs and in the occupations with the lowest numbers of pension plans—trade (only 37 percent of workers covered in 1979) and service (only 33 percent covered). BLS figures show that in 1982, women comprised 80.7 percent of all clerical workers; 59 percent of all service workers; and 45.4 percent of all sales workers. In contrast, women made up only 28 percent of all managerial/administrative workers, and a mere 7 percent of all craft workers.

Moreover, many employers provide pension plans only for specific categories of workers, such as management or craft personnel, in which women are underrepresented. For instance, a factory may cover its assembly line workers but not its clerical workers. Further, women are more likely to work in non-unionized fields, and unions have been instrumental in assuring retirement income for their members. Only 17.2 percent of women in the workforce belong to a union and the entire unionized workforce is only 30 percent female.

Participation requirements for most pension plans disproportionately exclude women.—Under the Employee Retirement Income Security Act of 1974 (ERISA), employers are not required to cover employees until they are 25 years old. Yet, the age group with the highest labor force participation for women is from 20 to 24 years old. In 1981, according to BLS figures, the labor force participation rate for women age 20 to 24 was 70 percent. (After age 24, a large number of women drop out of the labor force for a number of years to raise children.) To fail to count these early years is a severe disadvantage to women in accumulating total years of services.

At the opposite end of the age spectrum, employees who begin working for a company within five years of that company's retirement age can be denied participation in a defined benefit plan. For example, if a woman begins working at age 57 for a company whose pension plan has a retirement age of 62, she probably won't be eligible to participate in the plan. (This rule applies to defined benefit plans—the most common type of pension plan.) Further, after the age of 65, accrual of benefits is usually frozen even if the employee continues working.

Another participation requirement that disproportionately excludes women is the "year of service" requirement. Women are more likely to work part- or part-time year, and so, may not meet ERISA standards for the "year of service." (A year of service is defined as at least 1,000 hours of work—20 hours a week year round or full-time for six months—in a 12-month period.) In 1979, over 25 percent of all women workers held part-time jobs. If employees do not meet the year of service standard, they get no benefit or vesting credit for that year. Since more than 70 percent of the part-time labor force is female, this participation requirement has a disproportionately negative effect on working women.

Women often have shorter job tenure than men.—Pension plans require employees to work a specified minimum period under the plan before their benefits are vested. (Vesting is the legal, non-forfeitable right to receive accrued benefits at retirement.) Lack of vesting results in loss of retirement benefits. A substantial number of women who are in covered employment never receive benefits because they lack vested rights. Under ERISA, three options are offered with regard to vesting. The option most commonly adopted is no vesting prior to ten years of service, with full (100 percent) vesting after ten years. One expert estimated that over 75 percent of plans use this vesting schedule. However, in 1981, only 17 percent of women age 16 and over had been on the current job over 10 years. The median number of years on the job for women in 1978 was 2.6, compared to 4.5 for men. For women between the ages of 45–54, the median number of years on the job was 5.9, compared to 11 for men of this age; for women between the ages of 55 and 64, the median number of years was 8.5. Also, under ERISA, employers do not have to count years of service prior to the age of 22 for vesting purposes. (Even if you do not become a participant of a plan until after the age of 25, most plans are required to count years of service after age 22.) In summary, the vesting schedules of most pension plans significantly affect women's ability to qualify for a pension. Their pattern of low job tenure is one of the major reasons women do not become vested and therefore receive no pension benefit. As reported in The Pension Game, a study put out by the Task Force on Sex Discrimination, Civil Rights Division, U.S. Department of Justice, "According to one commentor, 'employees are camels and vesting provisions are the eyes of needles.' (To understand how well women fare in comparison to male employees, simply visualize a pregnant camel. . . .)"

Women are more likely to leave their jobs to raise children or take on other traditional family responsibilities.—Such "breaks in service" can limit the total pension credits earned and even cause the loss of all previously earned credits. Essentially, a break in service is a year in which the employee has worked less than 500 hours in a given year. Years of service before such a break may count for accruing benefits under ERISA, but not until after a one-year waiting period following the break. After that, service years must be combined including credit for the year waiting time. Non-vested workers can lose credits for service prior to a break if the length of the break is equal to or greater than the years of service. (Years in which the employee works between 500 and 1,000 hours are simply disregarded. They are considered neither breaks in service nor years of service.) If a woman takes a short break, she will not be penalized, but if she takes a significant amount of time off to raise a family, as many women do, she may forfeit all of her credits. An article in *Monthly Labor Review* (November 1975) stated, "Past estimates indicate the birth of a child reduces the average number of years a married woman could have expected to remain in the work force by 10 years, with each additional child further reducing the mother's work-life expectancy from 2 to 3 years."

To use an example from a Congressional Research Service report, a woman employed at age 18 could be excluded from participation in her employer's pension plan until she reached age 25. For seven years of employment she would accrue no pension credits. At age 22, the plan would be required to give her credit towards the plan's vesting requirement. If the plan called for 10 years of service before vesting, as most plans do, this woman would be fully vested at age 32. But, the vested benefits would be those earned only between the ages of 25 and 32. So where this young woman actually worked for 14 years, she would have earned just 7 years of plan participation. If this woman quit her job before age 32 to raise a family, she would have failed to meet the 10-year vesting requirement and, if not re-employed and covered by the plan, would forfeit her accrued pension credits.

It is interesting to note that in time of war, breaks in employment for military service are not considered breaks in service. The period of time in the military is counted towards a pension (if, of course, the individual who served returns to the same employer). As Helene A. Benson (Pension and Welfare Benefit Programs, U.S. Department of Labor) so eloquently put it, "Despite the sentimentalizing of motherhood and children, women are coming to realize that the price of child rearing in the U.S. is a possible old age of poverty."

The common practices of backloading and integration place women at an unfair disadvantage.—Sometimes, as an encouragement to and benefit of long-term service, an employer will increase the rate at which the worker accrues pension credits after many years of employment. This is called "backloading." Backloading provides greater benefits for long-term employees at the expense of short-term workers. The short-term workers unable to take advantage of backloading are usually women, again because of the typical interruptions in a woman's work life.

Another common practice used when computing pension benefits is integration. Essentially, integration is taking into account part of (up to 88 and one-third percent) an employee's Social Security benefit when figuring the pension benefit. The theory behind this practice is that the total retirement income for each employee should be the same percentage of his or her pre-retirement pay. Since Social Security is weighted toward the lower salaried worker, integration weights the pension toward the higher salaried worker. The effect of this practice can be devastating for workers with low salaries—to the extent that an employee may be covered by a private pension, yet not receive anything. Since women are usually in lower paying jobs and receive lower salaries in general, they are disproportionately affected by integration. Sometimes they are even "integrated out." Most major unions do not allow their plans to be integrated, but again the number of women belonging to unions is low.

All these problems lead to inadequate or no pension benefits for millions of working women. Pensions must accommodate real working patterns and needs in order to offer a decent standard of living after retirement. Until they do, the disproportionately negative effects of the pension system on employed women will continue.

Changes that would make the pension system more equitable for working women include:

(1) Amending ERISA to lower the age of participation. Since the highest proportion of women work between the ages of 20 and 24, it is crucial to count those years toward retirement benefits. H.R. 2100 lowers the participation age from 25 to 21, thereby counting all of the years a woman works after age 21 when figuring the amount of her pension benefit. H.R. 2100 also lowers the age at which an employee can begin receiving credit for vesting purposes from age 22 to 21.

(2) Amending ERISA to liberalize the "break in service" rules so that women who leave the labor force to bear and raise children are not penalized. If our society values the family and childrearing, then it is only reasonable that women not be penalized for carrying out this traditional role. Like years of military service, years spent bearing and raising children should be allowed in figuring pension credits.

H.R. 2100 modifies the break in service rules under ERISA by giving an employee pension credit for 20 hours per week for up to 52 weeks of employer-approved maternity or paternity leave. (If the leave is not approved by the employer, the worker would not get credit.) Further, the credit counts towards both vesting and the amount of the pension.

While H.R. 2100 does address the problem that women face (because of childrearing responsibilities) under current break in service rules, we believe that credit should also be available to employees who must leave the workforce to care for a disabled spouse or parent.

Some important problems women face with respect to current private pension practices are not addressed by H.R. 2100. We feel that the provisions included in this bill are crucial first steps toward correcting the inequities women face. However, further changes are needed. These changes include:

(1) Amending ERISA to require fewer years for full vesting. Current pension plans rely on the forfeiture of benefits by short-term workers, mostly women, to subsidize benefits for longer-service employees, mostly men. Substantially lowering the minimum service requirements would help eliminate this inequity and assure workers of their right to the benefits they have earned.

(2) Changing the integration rules so that all covered employees would be assured an adequate pension benefit.

(3) Minimizing the effects of backloading.

(4) Instituting "portability" of vested pension credits from one plan to another. With lower vesting requirements, portability is necessary so workers do not have small accrued benefits scattered in several different pension plans. Portability would allow workers to change jobs without losing pension protection.

Portability, lower participation age, lower vesting requirements, and liberalized breaks in service rules would work together to better protect women workers—indeed *all* workers—and ensure accrual of deserved pension benefits.

The problems in the private pension system will increase as our elderly population grows and inflation increases. Federal laws and regulations governing pension plans *must* be reviewed and significant steps taken to eliminate the discrimination against women implicit in the present pension system. Simple justice and common sense require that the pension system be changed so that all Americans can look forward to their later years with the assurance of adequate financial security.

Mrs. **KENNELLY**. Marjorie O'Connell, Women in Employee Benefits.

STATEMENT OF MARJORIE A. O'CONNELL, VICE PRESIDENT, WOMEN IN EMPLOYEE BENEFITS, INC.

Ms. **O'CONNELL**. I am the vice president of Women in Employee Benefits, and our organization is new enough that I would like to take a moment to tell you about us and why we especially wanted to come today.

Women in Employee Benefits, or WEB, as we call ourselves, is composed of tax lawyers, labor lawyers, accountants, actuaries, benefits consultants, and many others who administer plans throughout the benefits community who are predominantly women. Specifically, our interests are to provide a multidisciplinary forum where we may exercise our expertise as real problem solvers. When we address issues that strike home with us, particularly about women and retirement benefits, we put on our best thinking caps for problem solving.

We look forward to presenting our oral testimony today. We have submitted written remarks for the record.

Of the many, many issues that are addressed in H.R. 2090 and similar legislation being reviewed here today, we applaud the efforts of Members on both sides of the aisle, to address economic equality for women in survivor benefits, IRA provisions, and a credit for displaced homemakers.

There is one issue about which all of us felt we could speak with one voice in recommending a best way to you to correct a difficult situation that we run into in both our representation of employee participants and those individuals, most often women, who would seek to share in pension retirement benefits by virtue of marriage to an employee participant. We also represent plan sponsors when we administer plans and try to calculate benefits to respond to local State court orders or employee participant requests about the amount of benefits. Specifically today in this brief time I am limiting my remarks to those provisions of H.R. 2090 and those issues that have to do with the division and distribution of benefits on the occasion of divorce.

It is essential that Federal policy, Federal statutory policy catch up to the reality in the marketplace that State courts issue orders which are upheld in State and Federal courts providing that notwithstanding the nonassignment and alienation and preemption provisions of ERISA require plans to provide a system for the division of an employee participant's benefit pegged to the duration of marriage to a nonemployee spouse. The nonemployee, in the eyes of the State, has earned either a property interest or a right to look for a part of support from that property value.

Consequently, we applaud specifically section 104 of H.R. 2090 which gives a State court, divorce practitioners, and those representing plan sponsors a blueprint for what it is we must find out on behalf of our employee participant, whether we represent that individual directly as domestic counsel or whether we represent the plan trying to assist that individual. Such a blueprint is needed so that a State court order, and all of them in the various States, can be uniform when they arrive on a national plan sponsor's desk as to: One, who should receive benefits; two, how much benefit is the nonemployee entitled to receive; and three, when the nonemployee should receive the benefit.

We recommend, however, that in addition to what is currently in the bill some guidance be given to the State courts about how they are supposed to define the amount of benefits available, the accrued and vested benefits available, and that some guidance be given specifically to all of us about what kind of benefits are available to the nonemployee spouse. We recommend that all the options for the forms of benefits that would have been available to the employee spouse be available to the nonemployee.

We could also use guidance in the statute about how the benefit in the hands of the employee after its reduction and in the hands of the nonemployee spouse ought to be taxed to those individuals.

Lastly, we applaud the section 105 elimination of preemption, and we hope that all of us working together can bring a system into place which gives us an opportunity to do the best problem solving for people in this very difficult time of their lives when indeed people on both sides, both within the plan and without the plan, have probably worked hard for an entitlement and should not be confused about how to get it.

[The prepared statement follows:]

STATEMENT OF WOMEN IN EMPLOYEE BENEFITS, INC., PRESENTED BY MARJORIE A. O'CONNELL, VICE PRESIDENT

SUMMARY

(1) Women in Employee Benefits, Inc. is a multidisciplinary organization whose members are attorneys, actuaries, consultants, accountants, administrators and others involved in all phases of employee benefits.

(2) WEB commends the Ways and Means Committee for holding hearings on the issue of economic equity in federal tax and pension laws.

(3) WEB in particular wants to urge broad based reform of the system of handling retirement benefits in divorces which reform requires a clear Congressional policy statement.

(4) Federal policy should provide the outer boundaries within which state law and divorcing couples can reach an appropriate resolution in each case.

(5) The provisions of H.R. 2090 should include specific guidelines about the maximum benefits subject to assignment and taxation of assigned benefits. Provisions should be included to minimize administrative problems for retirement plans.

STATEMENT

I want to thank the Ways and Means Committee and Chairman Rostenkowski for giving Women in Employee Benefits this opportunity to testify about H.R. 2090, the Economic Equity Act, and similar legislation. I am the Vice President of Women in Employee Benefits, Inc. (WEB), a multidisciplinary organization whose members are involved in all phases of employee benefits. The membership of WEB is composed of attorneys, actuaries, consultants, accountants, administrators, and others in the employee benefits community.

WEB was founded in 1982 to provide a forum for individuals involved in various aspects of employee benefits to meet and exchange ideas and experiences. The rapidly expanding employee benefits community needs a central source where all facets of the area are addressed. WEB's major goal is to promote the professional development of its diversified membership. Based in Washington, D.C., WEB has members across the country. Current plans include the development of WEB chapters in major U.S. cities.

WEB performs several important functions. At monthly meetings, the members exchange ideas and recent developments in their individual areas of expertise. The mix of professionals from various specialties makes WEB a unique source for continuing professional education. A program of seminars on important topics will give WEB members a broad exposure unavailable from any other single organization.

WEB maintains a job bank with listings of job openings for employee benefits professionals. By fostering the career opportunities of its members, WEB helps to promote the employment of women in the field. The job bank relies on a network of members and other interested employers.

WEB regularly holds educational luncheon meetings with well-known speakers about benefit topics. Social functions sponsored by WEB open to all interested persons are an opportunity for members to expand their contacts. WEB plans to hold siminars and workshops about benefit issues and professional improvement. A WEB speakers bureau is a ready source of expertise in benefit-related topics for interested groups.

WEB commends the Ways and Means Committee for holding these hearings on the issue of economic equality in federal tax and pension laws. The Economic Equity Act, H.R. 2090, and similar legislation serves an important purpose in generating public discussion about many issues which need Congressional attention. The proposals for changes in individual retirement accounts, survivor benefits under retirement plans, rules for counting employee service, and jobs tax credits for displaced homemakers are all deserving of additional study by Congress.

Among all these issues from which WEB might have chosen a topic to address in the brief oral testimony we provide here today, we have selected an area in H.R. 2090 on which WEB members are unanimous in favoring broad based reform. That area is the assignment of retirement benefits in divorces. The current system of handling retirement benefits in marital dissolutions causes inordinate, unnecessary problems for all parties concerned. Plan administrators and employers, divorcing spouses, and employee benefit specialists all agree that Congress must act to solve the problems which arise.

WEB submits its views about the provisions of H.R. 2090 and similar legislation which relate to assignment and distribution of retirement plan interests in marital dissolutions. Congress should make a clear policy statement to facilitate the assignment of interests in retirement plans at the time of divorce. A federal policy should provide the outer boundaries within which state law as implemented by state courts, and divorcing couples may reach an appropriate resolution in each individual circumstance. State laws which exceed federally established boundaries should be preempted. Federal policy should force state divorce court orders to be workable within the terms of the retirment plans at issue. The burdens and requirements placed on the plan administrators and plan sponsors should be minimized without infringing on the rights of the divorcing parties.

The benefits to be paid should not be larger than they would have been without the divorce. In some cases, payments to the nonemployee spouse may be appropriate earlier than for employees to avoid administrative problems. Comprehensive legislation in this area should clearly provide the tax results of the division and assignment of retirement benefits.

Section 104 of H.R. 2090 would codify current practice and permit retirement benefits to be assigned pursuant to an appropriate judgment, decree or order of divorce. This is a necessary first step. WEB recommends that specific guidelines be provided in the legislation for (1) calculation of the maximum accrued and vested benefits subject to assignment, (2) how the assigned benefits are to be taxed, and (3) how retirement plans can administratively handle these situations with a minimum of additional time and expense.

The federal legislation should allow plan administrators to be neutral parties who merely carry out the divorce court order without involvement in the divorce itself. The nonemployee spouse who is assigned benefits should be treated by the retirement plan and the tax system as a participant for most purposes. For example, the nonemployee spouse should have all options for benefit payments available to participants.

Section 105 of H.R. 2090 would exempt state domestic relations law from ERISA preemption as to qualifying orders. WEB supports this change as a necessary adjunct to the other changes described above.

In conclusion, on behalf of WEB, I want to thank the Committee again for the opportunity to testify. WEB urges the Ways and Means Committee to continue its consideration of the important economic equity issues addressed by H.R. 2090 and similar bills.

Mrs. **KENNELLY**. Thank you very much.

Steven Zaleznick.

STATEMENT OF STEVEN ZALEZNICK, LEGISLATIVE REPRESENTATIVE, AMERICAN ASSOCIATION OF RETIRED PERSONS

Mr. **ZALEZNICK**. Thank you.

I am Steven Zaleznick, and I appear on behalf of the American Association of Retired Persons. The association appreciates the opportunity to testify before the committee to endorse H.R. 2090, the Economic Equity Act of 1983. While our statement for the record outlines our views on the provisions of the bill, I would like to concentrate on one aspect of major concern to our members—pension coverage for a surviving spouse.

Changing the law to insure that spouses of deceased members of the plan receive benefits is an important step in raising the economic status of older women. Median income of households of widows was $5,649 in 1978, which was only about one-third of the——

Mrs. KENNELLY. Excuse me. Could you just pull that mike closer and speak a little louder?

Mr. ZALEZNICK. That figure was one-third of the income for all households.

Considering the high incidence of poverty of women over 65 years, 51 percent of whom are widows, increasing the likelihood that a widow will receive benefits is high priority. H.R. 2090 requires that both spouses sign a consent form to waive receipt of survivor's benefits. Because the decision to waive the survivor's benefit has an enormous impact on the worker and his or her spouse, it should be agreed to by both parties.

H.R. 2090 provides further protection for spouses by requiring the survivor's benefit be paid to the spouse of a vested worker with at least 10 years of credited service under the plan. These changes would allow spouses of workers who die before reaching the plan's early retirement age and spouses of workers who die within 2 years of elective surviror's benefits to receive survivor's benefits.

These provisions give assurances to spouses that they have a right to receive the benefit earned by the worker. They also correct the current situation which could deprive a spouse from receiving benefits because the vested worker died within days of reaching an arbitrary early retirement age.

Passage of H.R. 2090 would result in a treatment of pensions which is more in line with the assumption that the right to receive a pension benefit be a joint property right. There is no justification for denying the pension to the spouse of a worker who would have been entitled to receive benefits but for untimely death of the worker. This notion of a joint right to benefits also requires that any decision to forego survivor's benefits be made by both spouses. Just as the income earned while on the job is used to support a couple through the working years, pension benefits are required to support both spouses through the years of retirement.

The implication that a surviving spouse does not need a pension because it is likely life insurance proceeds are available is totally unfounded. Death benefits which are usually paid out in lump sum tend to be modest, often only sufficient to pay for the expenses of a funeral. Such payments are not meant to be a substitute for pensions which are intended to serve as a continuing source of income throughout the life of the beneficiary.

To further refute the contention that life insurance benefits are meant to adequately replace pensions, we need only consider that in many instances the timing of the worker's death is all that prevents the spouse from receiving both.

The provisions which are now before the committee for consideration represent a positive step for older Americans, particularly women. However, a great deal more needs to be done to improve and stabilize the financial situation of the elderly.

The association feels strongly that the private pension system must play an important role in achieving this goal. Although private pensions should not be considered the only source of support for retirees, Congress must continue to work to bring about changes that will enhance the role of pensions as a complement to other sources of retirement income. Portability of pensions, vesting, and integration of private pensions with social security are all matters Congress should concern itself with.

We consider these hearings to be the beginning of strengthening the private pension system for the benefit of all participants.

Thank you.

[The prepared statement follows:]

STATEMENT OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS

INTRODUCTION

The American Association of Retired Persons appreciates the opportunity to testify before the House Ways and Means Committee regarding the "Economic Equity Act of 1983." The Association feels that changes in the law are needed to improve the economic status of women. The AARP is particularly interested in eliminating provisions which tend to restrict the opportunity of the surviving spouse of a plan to receive benefits after the participant has died. Because of relative life expectancies and workplace demographics, these adversely affected surviving spouses more often than not are women.

Statistics clearly indicate why Congressional action is needed to improve the economic status of older women. Older women as a subgroup of the elderly population tend to have the lowest incomes and the highest poverty rates. In 1981, while the poverty rate for older persons 65 and above was 15.3 percent, the poverty rate for older women was 18.6 percent. Poverty rates among single older women are particularly elevated. According to 1981 statistics, single women age 65–71 suffer a poverty rate of 27.6 percent while single women age 72 and above have an even higher poverty rate of 31.7 percent.

While the items for consideration at this hearing are not the entire cause for the current economic status of older women, remedies for these problems would lead to major improvements.

Because H.R. 2090 would resolve some major concerns, the Subcommittee should adopt its provisions. However, additional efforts will also be needed to fully address the obstacles that confront women.

PROBLEMS WITH THE PRIVATE PENSION SYSTEM

Women do not fare as well as men in the private pension system. In 1981, 27.7 percent of all men 65 and over received a private pension or annuity while only 10.5 percent of all women 65 and over received one. Women who do get benefits tend to receive smaller ones. The average private pension and annuity in 1981 was $4,152 for men and $2,427 for women.

There are a number of causes for the disparate treatment between men and women by the private pension system. Some of these factors affect women who are married to or divorced from husbands who are the primary beneficiary of an employer-sponsored pension plan. Others act to the detriment of women who are in the work force and attempting to earn their own pension benefits.

Under present law, it is possible for a spouse of a vested worker who dies to receive nothing from the worker's pension plan. This can occur for a number of reasons. First, the worker may have made an election not to receive joint and survivor coverage from the plan. The worker is allowed to do this without even notifying the spouse. Because the primary benefit will be higher without joint and survivor coverage, there is an economic incentive to opt out of it—particularly if the spouse is not involved in the decision-making process.

Additionally, plans are at times allowed to forfeit the benefits of workers who die prior to retiring. If a plan does not offer early retirement benefits, no benefits need be provided to spouses if the worker dies prior to reaching normal retirement age (usually age 65). For plans that provide early retirement benefits, the participant must be given the opportunity to elect an early survivor annuity. This requires that survivor benefits be paid to the spouse if the participant dies between the qualified early retirement age and the normal retirement age while still employed by the employer. However, current law permits a plan to disregard such an election and refuse to pay a survivor's benefits if a non-accidential death occurs within two years of the election. Should the participant die prior to early retirement, survivor benefits may be denied even if the participant is vested.

Federal pension law permits a plan to refuse to pay survivor benefits if the participant and the spouse were not married for the entire one-year period prior to the participant's death. Therefore, notwithstanding the length of the marriage, or its existence at the time when annuity payments began, a spouse may be denied benefits if he or she is subsequently divorced.

RESPONDING TO THE PROBLEMS OF THE SURVIVING SPOUSE

Changing the law to ensure that spouses of deceased plan participants receive survivor benefits is an important step in raising the economic status of older women. Widows make up the largest category of survivors. In 1978, widows who were heads of households numbered 8.8 million, as compared with only 1.5 million widowers heading a household. The median income of households headed by widows in 1978 was $5,649, which was only about one-third of the income for all households. Considering the relatively high incidence of poverty among women over 65, 51 percent of whom are widows, increasing the likelihood that a widow will receive survivor benefits is a high priority.

H.R. 2090 requires that both spouses sign a consent form to waive the receipt of survivors' benefits. Because the decision to waive the survivor's benefit has an enormous impact on both the worker and his or her spouse, it should be agreed to by both parties.

H.R. 2090 provides further protection for spouses by requiring that a survivor's benefit be paid to the spouse of a vested worker with at least ten years of credited service under the plan. These changes would allow spouses of workers who die before reaching the plan's early retirement age and spouses of workers who die within two years of electing survivor's benefits to receive their survivors' benefits. These provisions give assurances to spouses that they have a right to receive the benefit that has been earned by the worker. They also correct the current situation, which could deprive a spouse from receiving benefits because the vested worker died within days of reaching an arbitrary early retirement age.

The bill contains an additional provision which will be of value to certain divorces spouses. In cases in which the divorce occurs after the annuity starting date, the former spouse is treated as if he or she were still the spouse on the date of death of the participant. This provision could help to provide benefits to spouses in this situation.

AARP strongly supports these changes made by H.R. 2090. Its passage would result in a treatment of pensions which is more in line with the assumption that the right to a benefit be considered a joint property right. The Association believes this to be the proper approach to pension rights. We must get away from the notion that the right to a pension belongs solely to the worker. The spouse who is not employed outside of the home or who is only employed part-time, nonetheless has made a contribution toward the worker's pension. There is no justification for denying a pension to the spouse of a worker when the worker, but for the unfortunate timing of his death, would have been entitled to receive benefits. This notion of a joint right to benefits also requires that any decision to forgo survivor benefits be made by both spouses.

Just as the income earned while on the job is used to support a couple through the working years, pension benefits are required to support both spouses through the years of retirement. The implication that a surviving spouse does not need a pension because it is likely that life insurance proceeds will be available, is totally unfounded. Death benefits, which are usually paid out in a lump sum, tend to be quite modest, often only sufficient to pay for the expenses that accompany the death of a spouse. In 1978, the average amount of life insurance per policy for all types of policies was $7,170—with an average payout of $3,751 per beneficiary. The respective figures under group life policies were $11,183 and $5,921. Such payments are not meant to be a substitute for pensions which are intended to serve as a continuing source of income throughout the life of the beneficiary. Considering that the life expectancy of a woman aged 65 today is 18.6 years, it is easy to appreciate the importance of continued support payments in addition to a modest, one-time benefit paid at the time of the spouse's death. To further refute the contention that life insurance benefits are meant to adequately replace pensions, one need only consider that in many instances, but for the timing of her husband's death, the widow could have gotten both.

OTHER PROBLEMS ADDRESSED BY H.R. 2090

H.R. 2090 clarifies the impact of ERISA in divorce proceedings by stating that ERISA's prohibition of the assignment of benefits does not apply in the divorce situation. Therefore, state courts could call for the division of the pension pursuant to a divorce settlement. While most courts tend to follow this approach now, this exception to the anti-assignment rule should be clearly stated in the statute.

H.R. 2090 also attempts to resolve some of the problems that face women who work. Women who work prior to age 25 face obstacles because ERISA does not require plan participation until age 25. Because of their work patterns, however, a great number of women are in the work force between the ages of 21 and 24. Also, women who take maternity leave could run into difficulty because of their break in service.

By lowering the age for minimum participation standards to 21, and by requiring the continuation of benefit accruals while the employee is on approved maternity or paternity leave, H.R. 2090 will remove these obstacles which now face women. The Association supports these changes, which will help equalize the amount of benefits received by retired women with those received by their male counterparts.

TITLE II OF THE ECONOMIC EQUITY ACT H.R. 2090—DEPENDENT CARE

AARP supports the Dependent Care provisions of H.R. 2090. The expansion of the Dependent Care Tax Credit's sliding scale from a maximum 30 percent credit to 50 percent, along with a provision for its refundability, is an important step toward providing assistance to low-income caregivers who bear the heaviest burden of providing care for their elderly dependents.

Adequate care for elderly dependents is a pressing need for many families. As the population ages and life expectancy increases, there will be increasing demand for long-term care services by the elderly and their families. Today only 11 percent of the population is age 65 or older; by the year 2015, over 18 percent of the population will be age 65 or older. Within the elderly population the age 75 and older subgroup is increasing most rapidly. By the year 2000, 45 percent of the elderly population will be in this age group, compared to 39.5 percent at present. The proportion of the elderly who are age 75 and older is important because the incidence of chronic disease and impairment tends to increase with age, and increases dramatically after 75. It is this subgroup of elderly that is least likely to be able to maintain an independent lifestyle.

Those elderly who need formal long-term care are a subset of those who are "disabled" or who suffer activity limitation; 80 percent of noninstitutional long-term care is provided by family and friends. If the availability of family members or their willingness to provide care declines in the future, the need for formal long-term care services will escalate.

Of particular concern is that, coupled with the steady increase in the number of elderly persons, especially the very old, we are experiencing a period of retrenchment in public health and social expenditures which suggests an increased role for the family in long-term care. In a recent report the Federal Council on Aging indicated that meeting the future long-term care needs of the elderly will require an even greater utilization of the resources of "significant others" (e.g., family and friends).

In the past this familial support has depended, to a great extent, on women at home who have the time to provide care and support for their older family members. But in recent years the family structure has changed considerably. The supply of traditional family caregivers is jeopardized by economic downturn, divorce, and the changing role of women. As more women become employed outside the home, the adult daughter or daughter-in-law may not be available to provide support to dependent parents. Deterioration in the ability of the family to provide assistance may lead to needless institutionalization of dependent elderly.

Family members, particularly women, are often caught in a bind: Economic necessity compels them to work but one in ten middle-aged women between 45 and 65 have responsibility for older relatives. And caring for elderly dependents may be a full-time job. Although many women have taken on both of these jobs, the heavy responsibilities limit the ability of many others to work outside the home. Almost one million women age 45 to 58 claim that the health of a family member limits their work.

In the three-generation family, the adult children must provide help not only to aging parents but also to their own young children. The question becomes one of who should have priority in the allocation of resources. This becomes a greater problem if resources are limited. Clearly, families are in need of meaningful economic incentives to care for their dependents in the home while they are in the workplace.

Realizing economic and budgetary constraints at a time of increasing demands for long-term care, our goal must necessarily be to supplement—not supplant—family care activities. Federal income tax credits at levels structured to provide a more realistic level of support, coupled with refundability, would provide families with incentives to care for their dependent elderly in the home and to utilized adult day care facilities. Caregiving should not be a burden to be endured; rather, it should reflect a commitment to supporting the pattern of mutual aid between adult children and their elderly parents.

CONCLUSION

The provisions which are now before the Subcommittee for consideration represent a positive step for older Americans, particularly women. However, a great deal more needs to be done to improve and stablize the financial situation of the elderly. The Association feels strongly that the private pension system must play an important role in achieving this goal. In order to enjoy an adequate standard of living, retirees and their spouses must be able to depend upon the retirement income which they have duly earned during their many years of employment.

Although private pensions are not and should not be considered the only source of support for retirees, Congress must continue to work to bring about changes which will enhance the role of private pensions as a complement to other sources of retirement income. Portability of pensions, vesting, and integration of private pensions with social security are all matters with which Congress should concern itself. Therefore, we consider these hearings to be only the beginning of efforts to strengthen the private pension system for the benefit of all participants.

Mrs. **Kennelly**. Ms. Mendelson.

STATEMENT OF JOHANNA S. R. MENDELSON, PH. D., DIRECTOR, PUBLIC POLICY, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

Ms. **Mendelson**. I am Johanna Mendelson, director of public policy for the American Association of University Women. On behalf of our 193,000 college educated members, let me take this opportunity to thank this committee for allowing our organization to testify today.

For 103 years, AAUW has been an advocate of equality for women in the educational arena as well as in the workplace. That the Ways and Means Committee has devoted hearing time to the issues of economic equity for women indicates the growing recognition by this Congress that the feminization of poverty is real. Unless Congress acts now to correct basic economic inequities which affect women of all ages, as members of the paid work force and as homemakers, as married women, or as divorcees or widows, women will continue to face a bleak economic future in the next decade.

This committee has already demonstrated leadership in the area of pension reform. Through the enactment of TEFRA in 1982, top-heavy pension plans were eliminated. These plans, which discriminated against lower paid workers—mainly females—were revised to permit new vesting and participation requirements to incorporate all workers in small corporations.

Today we examine the proposed changes that are part of the Economic Equity Act of 1983, H.R. 2090. This bill has the support of AAUW and has been deemed among our top legislative priorities.

The provisions of the EEA are directed to alleviate inequities in current pension laws by amending ERISA, the Employment Retirement Income Security Act [ERISA] of 1974. This law did not adequately address the special needs of women.

Pensions are really part of a man's world. As more women enter the work force, and with the average life expectancy increasing to 86 years by the turn of the century, it is vital that the past systems, geared toward working men, be updated to reflect the needs of working women.

Women suffer in the pension system in several ways: they often have no pension coverage though they have been employed; they are often eligible only for minimal benefit payments; they have no survivor's benefits protection from their husband's coverage; they are not protected for retirement if they get a divorce.

The 1981 report of the President's Commission on Pension Policy noted that the existence of one pension benefit often was the difference between poverty and nonpoverty in the elderly. Seventy-two percent of the elderly poor are unmarried women—that is, single, widowed, separated, or divorced.

The feminization of poverty reflects not only the rising number of single heads of households, but also the expansion of the female population among the aging. The poverty rate among the elderly was 15.3 percent in 1981, with older men having a median income of $8,173 as compared to women's, which was $4,757, or just 58 percent of men's income.

In 1982, more than 9.7 million American family households—about 1 in 6, or 16 percent of the 61 million families—were maintained by women, and over two-thirds of these families included children under 18 years old. Let's face facts. Despite the nostalgia for family life of television sitcoms, fewer American families will have a man around the house if current patterns continue. Almost 9.4 million American families spent Father's Day without father.

I would like to direct my statement to title I, section B, spousal Individual Retirement Accounts. This title, also introduced as H.R. 2099 by Congresswoman Geraldine Ferraro, recognizes the growing use of individual retirement plans as a means of setting aside moneys for retirement. While IRA's are now part of retirement planning, they are skewed heavily toward working males and away from women who work in the home or who hold lower paying or part-time jobs.

The spousal IRA provisions of the EEA would affect women as spouses and would also affect women who are divorced. Increasing the maximum contribution for a nonworking spouse is an important step. It provides yet another incentive for a woman to establish some retirement security income in her own name, at some meaningful level of savings. Even though current law allows the division of the spousal IRA's in any portion up to $2,250, many women have been cut out of the IRA movement.

AAUW recognizes the importance of the homemaker's contribution to her family and her community. We are also pragmatic enough to recognize that we should not delude ourselves into thinking that spousal IRA's are a panacea for women's pension needs. IRA's help the middle and upper classes. One merely needs to look at the figures provided by the Joint Committee on Taxation to understand this reality.

In 1982, 11 million taxpayers took advantage of IRA's. Of these, 655,000 opted for the spousal IRA. I have provided a chart in my testimony that demonstrates the breakdown by family income.

Among families in the $30,000 to $50,000 range, 83.1 percent had more than one earner, as did those in the $50,000 to $75,000 bracket. At incomes of $75,000 or more, the proportion with multiple employment dipped to 72.4 percent.

IRA's have provided strong incentives for savings. In 1982, IRA's accounted for $59.5 billion. They are also a method of deferring taxes on income set aside for retirement. According to the Joint Committee on Taxation, estimates of current costs for IRA's, with the spousal options raised to $2,000, represent $100 million in 1984, $400 million in 1985–86, and $500 million in 1987–88.

The popularity of the spousal IRA increase is one which must be weighed against the other more pressing pension and retirement needs of women in our society. While AAUW fully supports the IRA provisions, there are many fundamental changes in the pension area which require congressional action.

Too many elderly women lived in poverty in 1983. As our population grows older, we must develop policies which prevent our society from becoming a two-tiered system where men enjoy the benefits of their labors through a secure retirement while women live on the edge of existence because our lawmakers did not plan ahead to avoid social and economic injustice.

[The prepared statement follows:]

STATEMENT OF DR. JOHANNA S. R. MENDELSON, DIRECTOR, PUBLIC POLICY, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

I am Dr. Johanna Mendelson, Director of Public Policy for the American Association of University Women. On behalf of our 193,000 college educated members, let me take this opportunity to thank this Committee for allowing our organization to testify today. For 103 years, AAUW has been an advocate of equality for women in the educational arena as well as in the work place. That the Ways and Means Committee has devoted hearing time to the issues of economic equity for women indicates the growing recognition by this Congress that the feminization of poverty is real. Unless Congress acts now to correct basic economic inequities which affect women of all ages, as members of the paid workforce and as homemakers, as married women, or as divorcees or widows, women will continue to face a bleak economic future in the next decade.

This Committee has already demonstrated leadership in the area of pension reform. Through the enactment of TEFRA in 1982, top heavy pension plans were eliminated. These plans, which discriminated against lower paid workers (mainly females), were revised to permit new vesting and participation requirements to incorporate all workers in small corporations.

Today we examine the proposed changes that are part of the Economic Equity Act of 1983, H.R. 2090. This bill has the support of AAUW and has been deemed among our top legislative priorities. The provisions of the EEA are directed to alleviate inequities in current pension laws by amending ERISA, the Employment Retirement Income Security Act (ERISA) of 1974. This law did not adequately address the special needs of women.

Pensions are really part of a man's world. As more women enter the work force, and with the average life expectancy increasing to 86 years by the turn of the century, it is vital that the past systems, geared toward wroking men, be updated to reflect the needs of working women. women suffer in the pension system in several ways: They often have no pension coverage though they have been employed; they are often eligible only for minimal benefit payments; they have no surviror's benefits protection from their husband's coverage; and they are not protected for retirement if they get a divorce.

The 1981 report of the President's Commission on Pension Policy noted that the existence of one pension benefit often was the difference between poverty and nonpoverty in the elderly. Seventy-two percent of the elderly poor are unmarried women—that is single, widowed, separated or divorced.

The feminization of poverty reflects not only the rising number of single head of households, but also the expansion of the female population among the aging. The poverty rate among the elderly was 15.3 percent in 1981, with older men having a median income of $8,173 as compared to women's which was $4,757, or just 58 percent of men's income (Source: Census Bureau, p. 60, No. 134, Table 17).

In 1982, more than 9.7 million American family households—about one in six, or 16 percent of the 61 million families—were maintained by women, and over two-thirds of these families included children under 18 years old. Let's face facts—despite the nostalgia for family life of television sitcoms, fewer American families will have a man around the house if current patterns continue. Almost 9.4 million American families spent Father's Day without father.

I would like to direct my statement to Title I, section B, Spousal Individual Retirement Accounts. This Title, also introduced as H.R. 2099 by Congresswoman Geraldine Ferraro, recognizes the growing use of individual retirement plans as a means of setting aside monies for retirement. While IRAs are now part of retirement planning they are skewed heavily toward working males and away from women who work in the home or who hold lower paying, or part-time jobs.

The spousal IRA provisions of the EEA would affect women as spouses and would also affect women who are divorced. According to the proposed legislation, the provisions would allow each spouse to have an IRA of $2,000 as long as one spouse was earning at least $2,000 per year. This raises the limit from $2,250 to $4,000. Furthermore, alimony payments for divorced spouses would be allowed in computing a person's total income for the purposes of determining their maximum allowable contribution to an IRA. Such provisions amend current law which limits nonwage earning spouses in the amount they can legally contribute to an IRA.

Increasing the maximum contribution for a nonworking spouse is an important step. It provides yet another incentive for a woman to establish some retirement security income in her own name, at some meaningful level of savings. Even though current law allows the division of the spousal IRA in any portion up to $2,250, many women have been cut out of the IRA movement.

AAUW recognizes the importance of the homemaker's contribution to her family and her community. We are also pragmatic enough to recognize that we should not delude ourselves into thinking that spousal IRAs are a panacea for women's pension needs. IRAs help the middle and upper classes. One merely needs to look at the figures provided by the Joint Committee on Taxation to understand this reality.

In 1982, 11 million taxpayers took advantage of IRAs. Of these, 655,000 opted for the spousal IRA. Broken down by family income, those earning up to $10,000, did not use spousal IRAs, and only 29,000 families earning between $10,000-$15,000 used spousal IRAs. The bulk of spousal IRA users fell in the income ranges of $20,000-$50,000, with the largest number of participants, 235,000, earning between $30,000-$50,000 in 1982 (See Table I).

Among families in the $30,000-$50,000 range, 83.1 percent had more than one earner, as did those in the $50,000-$75,000 bracket. At incomes of $75,000 or more, the proportion with multiple employment dipped to 72.4 percent. Thus, the population to benefit most from IRAs are clearly the group with the smallest claim on federal assistance.

IRAs have provided strong incentives for savings in 1982; IRAs accounted for $59.5 billion. They are also a method of deferring taxes on income set aside for retirement. According to the Joint Committee on Taxation, estimates of current costs for IRAs, with the spousal options raised to $2,000, represent $100 million in 1984; $400 million in 1985-86, and $500 million in 1987-88.

TABLE I.—*Spousal IRA's—1982*

Family income:	*Families participating*
$0 to $10,000	(1)
$10 to $15,000	29,000
$15 to $20,000	33,000
$20 to $30,000	189,000
$30 to $50,000	235,000
$50 to $100,000	139,000
$100,000 plus	21,000

[1] Insignificant.

Source: Joint Committee on Taxation, 1983.

The popularity of the spousal IRA increase is one which must be weighed against the other more pressing pension and retirement needs of women in our society. While AAUW fully supports the IRA provisions, there are many fundamental changes in the pension area which require Congressional action.

Provisions of the Economic Equity Act are but a beginning. The enactment of such tax bills as ERTA and TEFRA have addressed certain specific needs. If future public policy is to be developed in this area, AAUW recommends that changes be made in vesting provisions, eliminating the inequities of integrated pension plans, and providing for some pension portability for workers in this highly mobile society. Women workers today need lower vesting ages, a system to rollover pension earnings when changing jobs, and an end to the flawed concept of integrated pension plans, which penalize low paid workers by cutting into benefits earned while creating a tax shelter for businesses.

Too many elderly women live in poverty in 1983. As our population grows older we must develop policies which prevent our society from becoming a two-tiered system where men enjoy the benefits of their labors through a secure retirement while women live on the edge of existence because our lawmakers did not plan ahead to avoid social and economic injustice.

Mrs. KENNELLY. Thank you, Ms. Mendelson.

Ms. O'Connell, you talked to us about the problems you have seen in courts that have made a decision on property or pension rights in a divorce situation that has been inequitable.

Could you illustrate the situation you mentioned so we can get a better grasp of what you are saying?

Ms. O'CONNELL. Yes, of course. A situation that normally presents itself in a State court is that the nonemployee spouse alleges a property entitlement to the retirement benefit of the employee spouse. Some State courts, for a time, found that the retirement benefit itself was not a piece of property.

It was out of their reach. So, therefore, even though many, many States contemporaneously were ruling that a nonemployee spouse, had he or she resided in that State at the time of divorce, would have received a retirement benefit, some States were saying there was no entitlement.

Then some other States said the entitlement, if any, only went to that amount of the benefit which was in what we call pay status, that is, checks were already issuing.

So even though an employee might be on the verge of receiving a substantial retirement as a CEO of a major corporation, if that employee were not in pay status, the State court would not attempt to divide that retirement benefit.

Then the next step was some States said only if you are fully vested in your benefit will we call that an item of property. And some retirement plans provide for longevity of up to 10 years of service before a person would have any vesting at all in the benefit.

Thus, a nonemployee spouse could find him or herself with a 10-year marriage, perhaps a second one late in life, an employee who is only on the verge of vesting but not yet vested, and have no entitlement whatsoever at the time of divorce to the retirement benefit, as a property interest.

The real problem in this for the divorcing American population is you can live on the other side of a State line and have a drastically different result in the determination of your participation in your spouse's years of employment to earn retirement.

That is what causes us to look to Federal law, to not only make clear there is an entitlement, which I would now urge on you is the result in virtually every State in the Union, but to guide us about how much of benefit is available and how the benefit needs to be described for the plans when it is distributed, and how it ought to be taxed, so that there is really a unitary system controlled by ERISA as the outside Federal circle within which State courts can determine how much retirement benefit is available for division, and once they make that decision, then in a uniform way send the direction to a plans sponsor that says, "and this is how you shall pay the benefit", and when it is received, the employee and the nonemployee know how they have to report taxability on the benefit.

So it is guidance looking toward uniformity for the States and citizens inside the Federal penumbra that we advocate.

Mrs. KENNELLY. Thank you. We heard Ms. Schub testify that 17 percent of women working have a pension investment of 10 years.

In the profession group which you represent, do you see this figure going up or is it remaining the same? Do you see any change yet?

Ms. SCHUB. We are seeing some change in the tenure of women on jobs. Because of economic pressure women are taking fewer years out for traditional family responsibilities. But while we are seeing some slight increase in the tenure of women in particular jobs, women are still clustered in the lowest paying occupations and there is sex segregation in the work force.

Often the only way a woman can get a little bit more money is to leave her current job and go on to the next one. Because of sex discrimination and sex segregation in the work force, the progress is very, very slow.

Mrs. KENNELLY. That is a good point. Thank you.

One more thing about your testimony.

You talked about changes in the pension policy beyond the scope of this bill which would result in more equality. Could you quickly summarize any of those?

Ms. SCHUB. Well, three areas where we think changes are absolutely necessary are, first, reducing the number of years for vesting, because most plans, over 75 percent is the estimate, have ten-year vesting, which means there is no pension benefit accrued until after 10 years.

Second some reform in integration rules, which hurts lower paid workers, and third, portability, so that people would not have very small benefits scattered in six or seven different pension plans.

Mrs. KENNELLY. Thank you.

Mr. Duncan.

Mr. DUNCAN. Thank you, Madam Chairman.

I would like to welcome all of you to the committee. Some of you have been here before.

Ms. O'Connell, I know you have been here and helped us with your good testimony.

I would like to direct a question to Ms. Mendelson. Your testimony concentrates on spousal IRA provisions. I can well understand your reason for supporting these changes as I do.

But I wonder what your organization's position is with regard to its expansion of the dependent care credit as proposed in H.R. 2090 or targeted credit on lower income families as proposed this morning by the administration.

This tax credit, I think, as you know, covers care not only for children, but also of elderly dependents who must be looked after while their adult children are at work. Do you have a position on that?

Ms. **Mendelson**. Our association has taken a strong position supporting the provisions on dependent care as written in the Economic Equity Act in H.R. 2090.

As to the administration's proposals, I have only heard those proposals and have not seen them in writing and would not care to comment specifically at this time.

Mr. **Duncan**. Thank you.

Thank you, all.

Mrs. **Kennelly**. Thank you for coming and being with us today.

The next panel will be the Association of Private Pension and Welfare Plans, Judy Mazo, Martin E. Segal Co.; Chamber of Commerce of the United States, Richard Fay and Michael Romig; National Association of Manufacturers, Donald Phillips, Peter Truza and Patricia Callahen.

Judy Mazo.

STATEMENT OF JUDITH F. MAZO, VICE PRESIDENT AND DIRECTOR OF RESEARCH, MARTIN E. SEGAL CO., ON BEHALF OF THE ASSOCIATION OF PRIVATE PENSION AND WELFARE PLANS, INC.

Ms. **Mazo**. I am Judith Mazo, vice president of the Martin Segal Co., which is a nationwide employee benefits consulting and actuarial firm.

I am here today on behalf of the Association of Private Pension and Welfare Plans, a nonprofit organization representing a large number of both employers and employee benefit plan consultants.

We appreciate the opportunity to appear before the committee. I am going to just touch on some highlights in this statement that you have, and mention a few things which are not thoroughly covered in this particular statement.

Our organization has already testified on these bills in the two labor committees, and we offer our testimony there and, in effect, incorporate it by reference here, rather than repeating all the points that we made earlier.

I would like just to set a stage for where, to a great extent, we are starting from as employers, plan sponsors, and those working with employers and plan sponsors on these issues. That is, I think, probably it is safe to say for virtually all of our organization's membership, our primary concern is more fairness to the employees, male and female, the elimination of elements of inadvertent or perhaps advertent unfairness to employees. And to do that, we want to continue to meet needs of employees as employees' own life situations change. We are concerned that the resources that we can dedicate to that be available to us, and not tied up perhaps in a great many administrative, detailed types of requirements that might make it impossible for us really to honor the flexibility that we feel employees increasingly want and need in benefit design as their lifestyles change.

I was impressed that there was a great deal of notice given this morning to the fact that the patterns of working careers are changing, the patterns of marriage and family life are changing, and yet to a great extent, much of what is in many of these bills, it seems to us, is designed on a model that assumes that the husband works and earns a living and to a great extent the wife doesn't work for pay outside of the home, or if she does, it is trivial and secondary income, and therefore, every time you do something that gives the spouse more control over the employee's earnings, you are helping women.

I ask you to think about some of the underlying assumptions in that. Consider whether a man and a woman would respond in the same way to the question—you ask a man, have you talked to your wife about this financial decision, perhaps is one thing.

You ask a working woman, some of the women making $12,000 and $14,000 that were mentioned earlier, is this financial decision about your earnings OK with your husband—I think it may have a slightly different implication.

As employers, our concerns are meeting the needs of our workers within the kinds of budgets and resources that we can devote to it. In connection with that, not having to misdirect in our view resources to additional administrative problems which just cannot be overlooked.

In this testimony, in the items that we talk about here, we focus on two points, both of which relate to this. One is reducing the minimum age for participation in plans.

We suggest that instead of making every young short-service person an immediate participant, that the law could address the same problem by requiring that credit be given for service from age 21, but that an employee would only participate in the plan if he were there at age 25 and had the requisite service credit.

So anybody who really was making a career with an employer or only staying a reasonable number of years would get credit for those early youthful years of working there in the first stages of a career.

But someone who was working her way through school or took a first job to get oriented before moving to a more long-term job commitment, the employer would not have to keep track of those people, would not have to pay PPGC premiums on them.

The basic administration of an expanded participation rule would be vastly simplified.

We also want to point out and emphasize that there are certain types of plans that many companies offer which are thrift or savings and to a certain extent salary reduction plans.

Young, short-service people typically do not participate in those plans because it involves giving up current pay in order to dedicate pay toward—it is really deferred income more than necessarily retirement income.

There are many situations in which if those young, short-service people had to be made eligible for the plans, the plans could not be offered at all.

I would like to point out that among those who take a great deal of advantage of those types of plans, in our company's experience and that of others, are second earners who are working for companies with perhaps an income that is not all necessary for the support of the family.

There is a lot of female participation at the moderate income level in thrift and savings plans. If these plans could not be offered as a practical matter by companies because they are not as attractive to 21 year olds as they are to 32 year olds, I think it would be a substantial loss to the employees, to the companies, and to the benefits system.

I just want to make one minor point and then move on to my colleagues. One more point, which is not minor, which is significant.

That is——

Mrs. **Kennelly**. Ms. Mazo, would you mind if we waited and had that point in 20 minutes? We are going to recess for 20 minutes.

[Recess.]

Mrs. **Kennelly** [presiding]. The committee will reconvene. Thank you for your patience.

I would like to tell you that we had continuous votes under suspension under the 5-minute rule so that is why we didn't return when we said we would. Hopefully, we can continue for a time.

Ms. Mazo, I think you were making your last point.

Ms. **Mazo**. I was going to try to, ma'am.

That is, with respect to the early survivor benefits, I think to a certain extent it might be fair to say that most employers, if pushed, would say we will provide anything you tell us to provide as long as it doesn't cost us any more than what we are already paying.

Please note, however, that whatever it is we spend money on here, we won't have available to do other things.

The early survivor annuity benefit, at least as called for in H.R. 2090, is a very good example of a benefit that could detract from the pensions provided by retirement plans. It would provide, as I think is shown on the chart which is attached to our testimony, would provide very little in terms of income replacement or income protection for the family whose primary support had died.

It would cost a lot of money in terms of administratively keeping track and doing calculations, et cetera, and it would deliver very little to the surviving families of the public.

It would divert money that would otherwise be available for more efficient death benefits, benefits that perhaps are not earmarked to the spouse if, for instance, the employee is a divorced mother who is working to support children and needs guaranteed income protection for that.

We urge you to consider whether on a cost/benefit analysis requiring these kinds of distortions or these reshapings of retirement plans into overall family support plans, ultimately would serve to benefit families overall and would serve to benefit women, particularly working women.

Thank you.

[The prepared statement follows:]

STATEMENT OF THE ASSOCIATION OF PRIVATE PENSION AND WELFARE PLANS, INC.

Mr. Chairman and Members of the Committee, my name is Judith F. Mazo, Vice President and Director of Research of the Martin E. Segal Company. I am here today representing the Association of Private Pension and Welfare Plans, Inc. (APPWP). The APPWP is a non-profit organization founded in 1967 with the primary goal of protecting and fostering the growth of this country's private benefit system. The Association represents some 600 organizations located across the United States. Our member firms include hundreds of plan sponsors—both large and small employers alike. Additionally, our membership includes leading organizations from every element of the employee benefits system: investment firms, banks, insurance companies, accounting firms, actuarial consulting firms, and various others associated with employee benefit plans. Collectively, APPWP's membership is involved directly with the vast majority of employee benefit plans maintained by the private sector.

We appreciate this opportunity to appear before the Committee to comment on the pension provisions in the Economic Equity Act (H.R. 2090) and similar legislation.

The APPWP applauds the overall goal of these bills to remedy potential inequities in federal pension law with respect to the rights and benefits of both working and non-working women. We strongly support many of the provisions in these bills and have testified to this effect before the Senate Finance and Labor Committees and the House Subcommittee on Labor-Management. If you wish, we would be happy to provide the testimony we presented at these hearings for today's record. Rather than repeat our previous testimony we would prefer to focus on two provisions which are very disturbing to our membership and make specific recommendations with regard to these provisions.

Our first area of concern is with respect to the provision relating to lowering the age limitation for minimum participation standards for retirement plans from age 25 to age 21. It is our view that the appropriate minimum age for participation is not a women's issue. The legislative history of ERISA indicates that the minimum age was selected to permit plans to save administrative costs by excluding employees who, because of youth or inexperience with the job in question, had not made a career decision in favor of a particular employer or a particular industry. The reason for selecting 25 as the minimum age is as valid with respect to today's workforce as it was in 1974. We submit that the present participation age is not biased in favor of men or women because there is generally little likelihood that young people of either sex will remain employed with the same employer. Overall, we feel strongly that the small benefits to be realized by each participant from lowering the participating age clearly will be outweighed by the administrative and cost burdens of such change.

As just mentioned, the benefits to be realized by individuals participating before age 25 will be extremely small and, when distributed from the retirement plan, generally will be used by the employee as a severance benefit. While there may be no policy reason against providing severance payments to young employees, using pension plans to provide such benefits has the undesirable effect of diluting the benefits that may be derived by longer-term employees who look to the pension plans to meet their retirement security needs. In addition, it is clear that the change in participation age will result in additional direct costs for defined benefit plans because of the termination insurance premium that must be paid to the Pension Benefit Guaranty Corporation—which may be a substantial cost if the suggested premium increase to $6.00 per participant is adopted. Finally, there are the ever-present administrative costs for reporting, disclosure and record-keeping associated with any participant. The imposition of additional administrative costs should be carefully balanced against the need to be met and the magnitude of the benefits which will accrue.

We recognize, however, that the bills which have been introduced thus far have included the provision for lowering the minimum participation age. In light of the possibility that this may be adopted we urge you to consider two modifications which would lessen the impact of lowering the minimum participation age.

First, in the case of defined benefit plans, we would recommend that participation begin at age 25, but credit service from age 21 for all purposes: eligibility, benefit accrual and vesting. This would achieve the desired result of recognizing the service of employees who enter the workforce at a young age while at the same time reduce the administrative problems associated with including young workers. In addition, it would eliminate the additional cost burden of paying the PBGC premiums to insure the extremely small benefits which would accrue between age 21 and 25.

We realize that some will argue against this proposal, saying that unscrupulous employers will fire employees just before they reach age 25, in order to avoid additional pension costs. We do not believe this is a valid argument. It is inconceivable to us that any employer would act in such a fashion, as the business reason (to avoid pension costs) is simply not enough to justify firing an employee. However, in the unlikely event that this occurred, the employee is protected by the provisions of ERISA, and may bring action against the employer for violating his or her rights thereunder.

Our second recommendation concerns plans where employees are required to contribute or have salary redirection under the plan to become participants. Under these contributory plans younger employees are less likely than older employees to make contributions or salary redirection, because they are less concerned with retirement and more concerned with meeting immediate expenses.

If the minimum participation age is reduced to age 21, the tax qualified status of a contributory plan may be jeopardized because the plan may no longer satisfy the non-discriminatory standards under Code Sections 401(a)(4) and 410(b). These discrimination tests are based on the level of actual participation, so the addition of a large number of young employees, who may well not elect to participate, to the ranks of those who do participate may cause many such plans to fail the tests. Obviously, the disqualification of these plans is not an intended result. If the age 21 change is enacted, we strongly urge that Code Sections 401(a)(4) and 410(b) be amended to exclude from consideration employees under the age of 25 in plans where employees elect to participate by making contributions or salary redirections under the plan.

Our second area of major concern is with respect to the required survivor annuity if the participant completes some period of service. We believe that the concept of providing protection to a non-working spouse in the case of premature death of an employee is an idea which should be further explored by Congress. We believe, however, that it would be inappropriate as well as inefficient to provide such protection from a retirement plan which is intended primarily to be a life benefit not a death benefit. The survivor annuity benefit protection is meaningful only to the older couple, where the employee is near early retirement age. In the case of a young survivor there is a substantial waiting period before an annuity commences. If the provision were modified to provide for an immediate annuity of an equivalent value, the amount payable would be extremely small. Many employers provide group term life insurance benefits to their employees which serve as a substitute for the death benefit that might otherwise be payable under the retirement plan in the case of premature death. These group term arrangements generally provide excellent benefits to the spouse. In fact, they may provide greater amounts of money than under a retirement plan, and provide a substantial tax benefit in that they are fully excluded from income.

To illustrate this point we have attached a chart prepared by Kwasha Lipton, Inc., a consulting firm and member of our Association. The value to the spouse, expressed as a percent of the employee's salary of the survivor annuity under a rather generous plan is shown in the last column. It is clear by looking at this chart, the spouse would be in substantially better financial condition with the proceeds of a life insurance policy providing 100 percent of salary (1 x salary). thus, we suggest that, if the survivor annuity provisions are enacted, plans whose participants are covered by separate life insurance programs of the employer providing a specified percentage of salary be exempt. We believe that this will encourage employers to maintain a separate death benefit program based on the participant's compensation and providing greater protection for the non-working spouse than if such death benefits were provided under a retirement plan based on future retirement income.

Another problem created by the survivor annuity provisions is that individuals who have separated from employment with a vested benefit also must receive the survivor annuity protection. Many large plans will find it impossible to administer the election-out provision for these participants. Therefore, such large plans will be forced as a practical matter, because the plan cannot inform the participant of his or her right to elect-out of the survivor annuity, to provide the survivor annuity without charging an employee. This result may limit the plan sponsor's ability to provide other types of death benefit protection that may be preferable for the covered employees. For instance, many working women may want to be sure that their children receive continued income after their death; they may not have a spouse, or they may not have a spouse who needs their income for basic support. If pension plans provide an early survivor benefit to any vested employee without reducing the employee's benefits to pay for it, they could easily find that they cannot afford also to offer other types of options which may cover these working women.

Moreover, the requirements that a survivor annuity protection be given to employees who have terminated many years prior to their death will create tremendous administrative problems. For example, what will happen when someone who has no communication with a plan for 15 or 20 years applies for a pension after receiving a reminder from social security? Will the plan still be able to charge him for death benefit protection that he had but was unaware of? Presumably the law does not contemplate allowing terminated vested participants to reject early survivor protection retroactively; one does not need to be an insurance expert to appreciate the principle of adverse selection in that situation. Should a person who terminates service before early retirement age be required to make a binding election at that time. What if he or she has a different spouse—or no spouse—at an early retirement age? What if the employee does not know that a layoff is in fact a separation from service, or that an inability to get current work would persist long enough to ripen into a break-in service? All these problems and many more will arise when trying to deal with the survivor annuity option.

Finally, there are many provisions in the bills which have been introduced which are aimed at similar goals. When policy decisions have been made, a choice will also have to be made between these similar provisions. There are many instances where, in our view, one provision is better than another because the rule is more flexible for the plan or participant, easier to administer or the provision is more understandable. For example, H.R. 4032 offers a technically polished version of the proposal on break-in-service for maternity/paternity leave. Under H.R 4032, a participant is given the choice whether to take the year of credit for break-in-service in the year of the child's birth or the following year. This will help a short-service participant avoid a break-in-service.

Moreover, we favor the enactment of specific rules for the division of marital property which would provide plan adminstrators with the necessary guidance to resolve troublesome disputes. Therefore, we recommend provisions in H.R. 4032 and H.R. 3071 which contain a specific process for a plan administrator to follow in responding to a domestic relations order. Such specificity would provide a safe harbor for those adminstering plans as to the steps which they must take to be assured that they are paying benefits to the proper recipient.

There are other provisions which we favor or have specific recommendations to improve. We would like to work with your staff when the policy decisions have been made, to help select the approriate language to carry out the policy. We would be happy to work with you and your staff in any other fashion too. Thank you for this opportunity to testify.

ACTUARIAL VALUE OF SPOUSAL SURVIVOR BENEFITS [1]

Employee's		Retirement benefits at death as percent of final pay			Lump sum equivalent [2] as percent of final pay
Age at hire	Age at death	Participant's accrued benefit	Early (age 55) benefit	Spouse's survivor benefit	
20	30	10	5.0	2.50	3.7
20	35	15	7.5	3.75	8.1
20	40	20	10.0	5.00	15.9
20	45	25	12.5	6.25	29.5
20	50	30	15.0	7.50	52.7
20	55	35	17.5	8.75	92.2
30	40	10	5.0	2.50	8.0
30	45	15	7.5	3.75	17.7
30	50	20	10.0	5.00	35.1
30	55	25	12.5	6.25	65.9
40	50	10	5.0	2.50	17.6
40	55	15	7.5	3.75	39.5

[1] Expressed as percent of final pay for purposes of comparison with group insurance payments.

[2] Actuarial assumptions: 1978 GAM Mortality table using average of male and female mortality; spouse same age as participant; calculations at 8 percent rate of interest.

Plan provisions: Benefit formula is 1 percent of final pay for each year of service; vesting after 10 years of service; early retirement at age 55 and 10 years of service; benefit equals accrued benefit reduced by 5 percent for each year retirement precedes normal retirement date (age 65); spouse's benefit equal to 50 percent of participant's accrued benefit payable when participant would attain age 55 (reduced for early retirement) for surviving spouse's lifetime.

Mrs. KENNELLY. Thank you.

Mr. Fay.

STATEMENT OF RICHARD H. FAY, ON BEHALF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES, ACCOMPANIED BY MICHAEL J. ROMIG, DIRECTOR, EMPLOYEE BENEFITS AND HUMAN RESOURCES POLICY CENTER

Mr. FAY. I am Richard Fay, an attorney practicing in the employee benefit area. To my left is Mike Romig, director of the Employee Benefits and Human Resources Policy Center of the U.S. Chamber of Commerce.

We are here to present our views on the pending legislation.

This has been a long hearing and unavoidably repetition occurs in these kinds of hearings so I will just summarize our testimony.

We start off with some statistics which confirms our observation that for the most part these bills are based on an outdated concept of working women. That doesn't reflect the revolutionary changes that have occurred.

Be that as it may, let's discuss some specific provisions contained in most of the bills. First, as already has been stated, there is a provision to reduce the participation age from 25 to 21. The Chamber will not oppose this provision but we have serious reservations.

First, from our analysis of the admittedly less than perfect data it seems to us that the primary problem in the pension area today is lack of coverage, not lack of participation. We are fearful that these kinds of changes while resulting in very little increased benefits for women or other employees for that matter, just adds to the disincentive for small employers to establish new plans.

The second provision is to reduce vesting from 22 to 21. Obviously if you lower participation from 25 to 21, you would probably want to do this, also.

The third proposal deals with breaks in service. It should be clearly understood that there is already extensive protection insuring that people who have to leave the work force for one reason or another do not lose service credits. Again we see a provision that has a very marginal benefit if at all.

This provision particularly troubles us because it seems to single out one kind of absence from employment and favor it over many other obviously equally legitimate reasons to leave employment, for example, continuing higher education.

As to joint survivors' annuities, the Chamber supports the requirements that the spousal consent be attained. Even though we support this we want to assure you there is a great deal of administrative cost associated with it. One of our members estimates that this requirement alone will require his company to hire three new people to keep these records.

We share Judy Mazo's comments about providing for retirement benefits upon the death of the spouse. We think this could be done much more cheaply and efficiently through group term life insurance.

As to the divorce provisions we generally support them. We think there is need for clarification in this area. We think the administration proposal is a very fine step in that direction.

As to lump sums, we think that they should be increased recognizing the changes in the value of the dollar that have occurred since 1974.

In conclusion, I would like to step back from the provisions of the bill to discuss policy. That is, we should recognize the private pension system has a bias but it is a bias based on service, not sex. We should understand what we are trying to achieve.

If we are trying to achieve a system that provides retirement income for people when they reach retirement, then inherently it is going to have certain characteristics or limitations or biases and that is it can only reward those people who have a significant period of employment with a particular employer. There is no way around that.

If we decide that that bias is incorrect, let us admit it and say what we are after is some sort of severance pay arrangement, all well and good, which means more income and everybody can use it.

Let us admit, therefore, that we will not have a retirement system that will provide income for the increasing numbers of retirees, an objective which seems to us something to strive for.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF RICHARD H. FAY, ON BEHALF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

My name is Richard H. Fay. I am an attorney with the law firm of Reed Smith Shaw & McClay. I am accompanied by Michael J. Romig, Director of the Employee Benefits & Human Resources Policy Center of the U.S. Chamber of Commerce. We appear today on behalf of the Chamber of Commerce of the United States to express the Chamber's views on the impact of current federal pension laws on women and the effects of changing these laws under the Private Pension Reform Act of 1983 (H.R. 2100), the Pension Equity Act of 1983 (H.R. 4032) and related legislation.

THE GROWTH OF PENSIONS

Private and public pensions constitute a significant and growing source of income for elderly Americans. Data compiled by the U.S. Department of Labor and others show that both the number of tax qualified plans and the number of employees participating in such plans have been increasing. The only pauses in this growth have been as a result of significant changes in the federal laws regulating these plans.

The most recent figures compiled for the President's Commission on Pension Policy reveal that, in 1979, over fifty million jobs were covered by private pensions. This is up from 20 million jobs in 1960, for an increase of 163 percent, a growth rate that far outstripped the 41 percent growth in total jobs during the same period. Stated in other terms, there were 35 million pension plan participants in 1979. This is more than double the 17 million participants in 1960. In terms of employees with vested pension rights, there were over 20 million in 1979, more than 14 times the number of 1960.

While much of this growth in covered jobs occurred prior to the enactment of the Employee Retirement Income Security Act (ERISA), the growth continues, albeit at a slower pace. Clearly, ERISA reduced the willingness of employers to take on the responsibility and liability for implementing a private pension. We now fear that the burden of the top heavy rules of last year's Tax Equity and Fiscal Responsibility Act (TEFRA) will slow further the growth of jobs covered by a pension plan.

Admittedly, the added ERISA protections have resulted in more benefits for covered employees. The increased participation and accelerated vesting rules of ERISA have contributed to the increase in the number of employees participating and vesting in a pension. Presumably, the shortened vesting time requirements for top heavy plans will add to the number of vested employees, but this may prove to be a pyrrhic victory, since many affected employers are choosing to abandon pensions rather than assume the increased liabilities. This negative development should be weighed carefully during consideration of the legislation before this Committee.

PENSIONS AND WOMEN

In the past, working women have been less likely than men either to be covered by a pension, or to receive a pension. In addition, those women receiving a pension have been likely to receive a smaller one than that received by men. As more and more women enter and remain in the workforce, however, the problems that have been experienced are diminishing.

For instance, as the number of pensions and the number of covered employees has been increasing, so too has the number of women participating in pensions and the number of women who are vested in a pension. Even more significant, though, is the fact that while fewer women currently are protected by a pension than men, the women's rate of participation appears to be growing faster than men's.

Government surveys undertaken in 1972 and 1979 reveal that the number of women covered by pensions grew from 21 percent of the women in the workforce to 31 percent—a 50 percent growth rate. At the same time, however, the rate of the growth for men's employment in jobs covered by pensions was only 10 percent (from 46 percent of the workforce to 50 percent). This faster growth rate for women appears to reflect the increased participation in the workforce by women and the increase in pension plans in the service sector of our economy, where women more often are employed.

If Congress chooses to make pensions more costly, though, the problems presented for women today may apply to both men and women tomorrow. Not surprisingly, as pensions become less cost-effective as a compensation devise, employers become increasingly reluctant to take on or continue the burdens of a defined benefit plan. Thus, if pension plans become too costly, there will be fewer plans and the interests of both sexes will be harmed.

EXPLANATION OF PENSION COVERAGE

Many reasons exist for the fact that women have been less likely than men to be covered by a pension and likely to receive a smaller benefit amount than men receive. The major reasons, however, are all traceable to either women's employment patterns, the low paying nature of jobs held by women, or the career service requirements generally characteristic of pension plans.

Employment patterns.—Until recently, women were less likely to have a substantial and continuing attachment to the workforce. Many of today's women (and men) who have not worked in the past have only one way of gaining a pension—through their spouse. None of the legislation before this committee changes this fact. Fortunately, however, the increased and continuing participation in the workforce of younger women will enable future women retirees to rely on pensions which they themselves have earned. Thus, for this reason alone we can expect significant narrowing of the pension gap between men and women.

Job selection.—Not all jobs are covered by a pension plan. Historically, women have been more likely than men to be employed by companies without a plan. This fact results from the tendency of women to work both for small businesses, which are less likely to have pension plans than large manufacturing firms, and also for non-unionized employers, which also are less likely to have pension plans. It is important to note that the problem of pension costs for small businesses would be exacerbated by the higher costs created by the pending legislation. This fact and the fact that the legislation would have no effect on the number of women working in unionized positions, indicates that the proposed legislation would not help, and could even harm, the effort of women to gain greater pension coverage.

Pension characteristics.—Employment by a company with a pension plan does not guarantee that benefits will be received. An essential feature of any company pension plan which attempts to accumulate funds to pay future retirement benefits is exclusion through age and service and vesting requirements. We refer to these as pension plan design characteristics.

THE PROPOSED LEGISLATION

All of the pending bills offer changes in current pension plan design. We have analyzed these bills and conclude that some of the changes will be helpful, while others will be costly and inimical to the interests of those legislation is trying to assist. We support all enactments which realistically could further the goal of maximum pension coverage for women. Some of the provisions of this legislation are troublesome to our members, however, and we would like to share their concerns with you.

CHANGING PENSION DESIGN

All of the pending "pension equity" bills share one common trait—they would change the rules governing the design of pension plans in an attempt to improve pension benefits for women. These changes will not be helpful if they are counterproductive. Thus, we must ask:

(1) Will the proposed changes accomplish the intended results?
(2) Will the changes be cost-effective?
(3) Can the results be achieved better through other means?

Only a bill which can answer these questions satisfactorily can be considered a step forward for women.

Changing participation standards

ERISA currently requires that all employees of age 25 or older who have one year of service be eligible to participate in an employer's pension plan. All the pending bills would lower the minimum participation age from 25 to 21, in the hope of increasing pension benefits for women. While we do not oppose this provision, we do want to share some observations with you.

Data compiled by the Employee Benefit Research Institute (EBRI) reveals that the problem for young workers, including women, is not that age thresholds are too high, but that plans are too few. For example, in 1979, only 1.2 million workers of age 21 to 24 did not participate in pension plans for jobs covered by a plan, while more than twice that number, 2.6 million, were participating in such plans. Perhaps the most striking fact is that 5.2 million workers of age 21 to 25 were in jobs with no pension coverage. Thus, the lack of a pension plan was the greatest pension problem for almost 60 percent of the nine million employees of age 21 to 24. More importantly, this problem was shared by all workers holding jobs not covered by pension plans, regardless of age.

Finally, it should be noted that if the minimum participation age were to be changed, only an additional 13 percent of the age 21 to 24 workforce would become eligible to participate in their employer's pension plan, and most of these employees would never vest, since younger workers are the most mobile group in the workforce. In addition, little benefit would be gained by those whose benefits do vest, because ERISA already requires employers to count years of service beginning at age 22. Thus, a change in the minimum participation age would add to pension costs and reduce incentives for employers to establish a pension plan, but provide little advantage to younger workers, including women.

Comments from our members indicate a real concern about the potential cost of the added administrative, paperwork, and accounting burdens imposed by the change. ERISA would require records to be kept, plan descriptions to be supplied, annual reports to be mailed, and pension guarantee insurance premiums to be paid for all the added employees. Standard accounting rules require that plans also fund for these employees. This increased cost would not be objectionable if the changes resulted in a proportionate increase in pension benefit. But experience shows that such would not be the case.

Another concern expressed by members is that the change might impact adversely on a plan's ability to meet the non-discrimination requirements of the tax code. Some firms fear that many of those made eligible to participate in a "voluntary" defined contribution plan will not do so, and as a consequence, some plans would lose their tax qualification status.

These problems could be overcome if some of the costs associated with the rules change were eliminated. One suggestion would be to waive current ERISA requirements for providing annual reports to workers less than 25 years old. Another suggestion would be to waive the payment of a PBGC premium for these workers.

Changing vesting rules

Despite the faster vesting required by ERISA, many short-time employees still do not vest their benefits despite their participation in their employer's plan. Since in the past women have been more likely than men to hold a job for shorter periods, women have been most affected by the bias against shorter term employees. H.R. 2100 and H.R. 4032 would help employees hurt by this bias by requiring plans to begin counting service years for vesting purposes from age 21, rather than age 22. Many of our members support this proposal and some feel that a change in the participation age to 21 should be accompanied by a similar change in the minimum vesting age.

Changing breaks-in-service rules

In theory, any interruption in employment can have an impact on pension credits. In fact, however, ERISA does not permit plans to recognize a period of less than one year as a break-in-employment service. Furthermore, a break-in-service is recognized only if the break is for a 12-month period, during which an employee has less than 501 hours of employment. In addition, ERISA provides that generally accrued benefits are not lost after a break-in-service until the number of years of the break equals the number of years of pre-break service. Nonetheless, employees whose benefits have not yet vested and who are off the job for whatever reason for more than one year incur a break-in-service and the concomitant danger to their pension benefits.

Since many younger women interrupt their employment to have and raise children, they often drop out of the workforce for a period of time. Both bills propose to change the rules for a break-in-service to exempt up to one year of approved maternity or paternity leave. The discussion above indicates that such a change would be of little value to anyone. Most pregnancy leaves either are not long enough to be a break-in-service, or are much too long to benefit from this proposed change. Yet, if Congress enacts this change, every pension will have to be amended, every plan description revised, and every employee notified of a change that will be of little benefit.

Finally, our member companies are very troubled over the prospect that this proposal would transform ERISA from a statute setting forth general benefit requirements to a statute prescribing specific benefit directives. We believe that such a transformation of ERISA would be a mistake.

CHANGING PENSIONS FOR NONEMPLOYEES

At present, the only way a non-employee can obtain a pension benefit is as a survivor of a pensioned employee. When the retiree is alive, the spouse and/or dependents share the pension. When the retiree dies, the pension will continue to be paid, generally in a reduced amount, if the retired employee had elected a joint and survivor annuity. Despite this feature of private pensions, problems exist which require attention.

J & S annuity changes

Under current law, plans which provide for the payment of annuities are required to make the J & S annuity the normal form of pension payment. If an employee does not want to receive a J & S annuity, he must reject it in writing.

Women have complained that current law does not adequately protect their interest in their spouses' pension, since the employee spouse is able to elect against the J & S annuity without the non-employee spouse's knowledge. Many of our members agree with this complaint and support requirements for spousal agreement to any waiver. Indeed, in community property states, wise employers already require such an agreement in writing.

Both bills, H.R. 2100 and H.R. 4032, respond to this complaint regarding waivers. Each bill requires written consent of the employee's spouse before an employee could waive the J & S annuity. While this provision appears to be prospective in application in each of these bills, it should be noted that any retoractive effect would entail considerable expense and problems. Therefore, we want to emphasize the importance of keeping the bills prospective in nature, and request provision for adequate lead time for our members to comply.

H.R. 2100 goes further than H.R. 4032. It requires payment of a spousal annuity in cases where an employee vested in a plan which provides for early retirement dies before reaching either the early retirement age or 10 years before the normal retirement age of the plan, whichever is later. Current ERISA rules require payment only where the employee has reached these mile posts and has designated a J & S annuity.

In most such cases, the employee's spouse receives life insurance or a combination of life insurance, accident insurance, and/or workers' compensation annuities, as the circumstances warrant. In most instances, the pension annuity will not be paid. If H.R. 2100 is enacted, it would duplicate these benefits and most benefit plans would have to be modified to avoid this result. Unfortunately for the surviving spouse, the resulting benefit may well be smaller in amount and value, particularly in cases involving younger employees, where several unfavorable actuarial reductions would be applied. Thus, we believe, and EBRI confirms, that for many reasons, the surviving spouse would be better off receiving tax-free lump-sum life insurance instead of taxable pension benefits.

Reaction among our members to the change proposed in H.R. 2100 is mixed. Most members would respond to the change by reducing the life insurance benefits currently being used to meet this contingency. Many members prefer that Congress raise the 25 year old limit on the amount of life insurance that can be pruchased tax-free for employees. Such an increase is long overdue, and would allow many employers to improve existing life insurance benefits, which are a better benefit for most widows and widowers.

Divorce situations

ERISA was designed to protect the pension rights of employees. Two features of ERISA play prominent roles in this protection: one is the alienation and assignment provision, which prohibits a pension plan from honoring any garnishment or other court judgment against an employee's pension, and the second is the preemption provision, which prohibits a state law from overriding or interfering with ERISA protections. These provisions do not take into account the interests of spouses, many of whom are women, during a divorce situation.

When a divorce does occur, the employee's pension plan often is faced with a court order to divide up a pension right and/or make distributions from the pension to the employee's spouse. Compliance with such an order, however, may violate ERISA and create liability to the employee (and other participating employees) for any losses to the plan. Despite much litigation, the courts have not agreed on how this conflict should be resolved. Accordingly, the Chamber welcomes legislation to clarify pension plan responsibilities under such circumstances.

We recommend a solution which maintains federal preemption of state law, but allows plans to honor state court divorce orders requiring assignment of an employee's accrued vested interest in a pension, subject to the terms of the plan. We also believe this change should be enacted on a prospective basis, with direction given on how to calculate a subsequent spouse's survivor annuity. Taken together, these changes, which are set forth best in H.R. 4032, represent a good balance between the interests of the state, the spouse, the employee, plan participants, and the employer.

LUMP-SUM BENEFITS

In discussing amendments which would increase the number of women's pension and spousal annuities, the Chamber would also like to call attention to a problem already faced by American business—lump-sum benefits. ERISA currently allows employers to provide a lump-sum benefit whenever the current actuarial value of the benefit is $1,750 or less. This threshold, adopted in 1974, was intended to spare employers from the expense of administering small pension annuities over a long period of time. The practicability of this threshold has already eroded, however, by the high rate of inflation since 1974. Thus, it is necessary to raise the threshold (as provided for in H.R. 4032 from $1,750 to $3,500) and to index the threshold to prevent inflation from eroding it once again.

TAX CODE CHANGES

The Economic Equity Act (H.R. 2090) proposes to make two important changes in the Internal Revenue Code's treatment of women. First, the Act would include displaced homemakers in the list of eligible hirees under the targeted job tax credit (TJTC) program. Second, the Act would make two changes in the rules governing contributions to individual retirement accounts (IRAs). Each of these proposed changes are under review by the Chamber's policy committees and our comments today, therefore, are only preliminary in nature.

Displaced homemakers

Displaced homemakers spent most of their productive years in the home caring for the family, but subsequently lost their source of support as a result of the divorce, death, or disability of their spouse. There are an estimated 3.3 million displaced homemakers, many of whom find re-entry into the job market quite difficult because they lack up-to-date work skills. The inclusion of these individuals among those eligible for certification for a TJTC would improve the ability of displaced homemakers to gain employment.

We are proud that many of our member companies emphasize the hiring of employees eligible for the TJTC. We supported the original enactment and the extension of the TJTC program, and are currently considering expansion of the program to include additional groups, such as displaced homemakers.

IRA changes

The Economic Equity Act proposes to alter the IRA eligibility rules. First, the Act would include alimony as wages for the purpose of defining income eligible for IRA contributions. Second, the Act would permit lower paid spouses to establish and contribute to an IRA according to the contribution limit set for their higher paid spouse.

Individual retirement savings are an important feature of our nation's retirement system. Our preliminary assessment of the IRA changes proposed by the Act indicates that they merit serious attention.

CHANGING ACTUARIAL PRACTICES

On July 6, 1983, the U.S. Supreme Court, in *Arizona Governing Committee* v. *Norris,* ruled that Title VII of the Civil Rights Act prohibits an employer from offering a pension benefit option which pays a lower benefit to a woman than to a man, when both have made the same contributions. In recognition of the significant cost implications of this decision, the Court applied its holding only to pension contributions made after August 1, 1983. Although the *Norris* decision dealt specifically with defined contribution pensions provided by public sector employers, the effect of the ruling is to mandate that all pension plans provide equal benefits to employees without regard to sex.

This policy result is duplicated by the proposed "unisex" legislation (H.R. 100), which is now pending before both this Committee and the Energy & Commerce Committee. In general, this legislation seeks to enact by statute what the Supreme Court already has decided by judicial interpretation. Unlike the Court's careful treatment of this issue, however, the unisex proposals call for retroactive remedies, which will create great financial burdens for pension plans. Thus, given the fact both that the Supreme Court's decision has mooted the need for legislation mandating sex-neutral payment of benefits, and also that there are flaws in the proposed bills, the Chamber recommends against approval of the unisex legislation.

SUMMARY

In summary, no legislation can overcome most of the pension problems which women faced in the past. However, as women have changed their working patterns, these problems have been disappearing. The Chamber supports the efforts of this Committee to improve the situation for women and appreciates this opportunity to present our views on the specific bills pending before this committee. We urge the committee to study the practical implications of all the bills to ensure that women truly benefit from enactment of the bills.

Thank you, Mr. Chairman.

Mrs. **Kennelly**. Thank you.

Mr. Phillips.

STATEMENT OF DONALD W. PHILLIPS, DIRECTOR OF EMPLOYEE BENEFITS, BEATRICE FOODS CO., AND CHAIRMAN, PENSION SUBCOMMITTEE, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. **Phillips**. Thank you, Madam Chairman.

Appearing with me today is Patricia Callahan, director of employee benefits at the National Association of Manufacturers; and Peter Truza, with the Washington office of the law firm of Gibson, Dunn, and Crutcher.

I will also try to summarize our comments on the pending legislation in a few minutes. There are four basic areas we would like to focus on. The first is the preretirement spouse's death benefit. The NAM supports this provision which would allow participants who have worked at least 10 years under a plan to take a reduction in their expected pension benefits in order to provide a survivor's benefit for their spouse.

However, we would recommend that the survivor's annuity option be elected only by an active participant and be payable only in event of death of an active employee and not those who are terminated and vested. On this point we would differ from S. 1978 as currently proposed.

We would also suggest that the survivor's benefit be sufficient to justify the need of the payout. Therefore we would recommend a minimum age requirement such as age 45 in addition to 10 years of service in order to be eligible for a preretirement spouse's death benefit.

Second, is the matter of breaks in service for maternity and paternity leave. We cannot support creation of a separate category to receive special treatment for specific types of leave. We firmly feel the present breaks in service rules under ERISA are sufficient to meet the situations of a normal pregnancy or maternity leave.

Third is the joint and survivor spousal consent provision. The NAM observes that the provision to require spousal consent in writing if a form other than a J and S is elected could add to the administrative costs of some plan sponsors. However, these costs could be greatly contained if the burden of electing the option were placed on the plan participant and not on the company and also that the company not be responsible for policing that action.

Here we are asking that if we have to give an election that the responsibility be placed on the participant rather than the company to police it.

Fourth is the participation requirement. This would reduce the age from 25 to 21 while the NAM observes that many of its members already credit service from the original date of employment, we do not endorse mandating a reduction to age 21 for purposes of participation. Our reason is primarily for ease of administration so that we would not be picking up a lot of administration associated with maintaining records for a group of people who historically have had a high turnover in employment.

Madam Chairman, that concludes my remarks.

[The prepared statement follows:]

Statement of Donald W. Phillips, Director of Employee Benefits, Beatrice Foods Co., on Behalf of the National Association of Manufacturers

EXECUTIVE SUMMARY

Since the National Association of Manufacturers has long advocated equal rights and greater opportunities for all persons, we support the objectives of the pending legislation, that is, to promote public policies which will foster economic security for women in their retirement years.

We feel there are compelling reasons to be particularly sensitive to the needs of non-working, dependent spouses, especially those who are of retirement age.

However, there is also a need to recognize the changing composition of the workforce. The evidence is unmistakable that the percentage of career women has increased substantially in the recent past. These are women whose attachment to the workforce will be steady and long term and who can expect to accrue rights to a meaningful pension on their own and not as a result of a marital relationship. With this in mind, the NAM would like to summarize its response to some key provisions of the pending legislation.

Preretirement spouse's death benefit.—NAM supports this provision which would allow participants who have worked ten or more years under a plan to take a reduction in their expected pension benefits in order to provide a survivor's benefit for their husbands or wives. However, so that administrative costs to plan sponsors would be lessened, we recommend that the survivor's annuity option be payable only in the event of death of an active employee and that the employee have accrued sufficient benefits so that the pay-out be meaningful.

State law property settlements.—NAM supports the proposed changes to the anti-alienation provisions of ERISA and a clarification of the various parties' responsibilities when confronted with the dividing benefits under state court decrees in cases of divorce. We believe, however, that the amount awarded to the divorced spouse should not exceed the accrued benefit at the time of divorce; and, that the courts should not be able to order an immediate cash-out of the present value of the benefit at that time or change the timing of the receipt of the particular benefit.

Participation requirements: reducing the age from 25 to 21.—While NAM observes that many of its members already credit service from the date of employment, we would not endorse mandating a reduction to age 21 for purposes of participation. The reason for this is to reduce the administrative costs associated with a group of people who historically have had a high degree of turnover.

Breaks-in-service: maternity/paternity leave.—NAM can not support the creation of a separate category to receive special treatment for a specific type of leave. We feel that the present break-in-service rules under ERISA are sufficient for most situation of normal pregnancy/maternity.

Joint and survivor spousal consent.—NAM observes that the provision to require spousal consent in writing if a form other than J&S is elected could add to the administrative costs of some plan sponsors. However, those costs could be greatly contained if the burden of electing the option were placed on the plan participant and not be considered the responsibility of the plan sponsor. We would also urge that plan sponsors be held harmless by receipt of the written consent and not be required to look beyond the four corners of the document.

Unisex insurance.—NAM feels that the issues relating to unisex as applied to pension and annuities have been adequately disposed of by the decision in *Arizona Governing Committee* v. *Norris.* We would oppose any attempts to mandate retroactive application of the decision.

Effective dates.—So that plan sponsors will be able to reduce or contain the administrative costs associated with amending plans, NAM would urge that further changes in the obligations of plan sponsors be coordinated with the applicable prospective effective dates of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

STATEMENT

Mr. Chairman and members of the Committee, my name is Don Phillips and I am Director of Employee Benefits for Beatrice Foods Co. I am appearing today in my capacity as a member of the National Association of Manufacturer's Employee Benefits Committee and as Chairman of its Pension Subcommittee. Accompanying me are Peter H. Turza, a Partner in the law firm of Gibson, Dunn & Crutcher who is also a member of NAM's Employee Benefits Committee, and Patricia Callahan, the NAM's Director of Employee Benefits. The NAM is an organization of over 13,500 corporations of every size and industrial classification located in every state. Our members employ 85 percent of the workers in manufacturing employment and produce over 80 percent of the nation's manufactured goods. NAM also has an affiliation with 158,000 businesses through its Association's Council and the National Industrial Council.

We wish to take this opportunity to commend the Committee and particularly you Mr. Chairman and Mr. Conable on the continuing leadership to promote federal public policies which will assure a sound private pension system.

We are particularly pleased that both the Congress and the Administration have pledged their support for legislation which will be beneficial to the rights of both working women and non-working dependent spouses.

Since the NAM has long advocated equal rights and greater opportunities for all persons, we welcome the chance to review the women's equity proposal constructively and with a view toward supporting the objectives of proponents, promote public policies which will foster economic security for women in their retirement years. During deliberations, we were careful to assess the various proposals to be certain that they would indeed be economically beneficial to women. We were also concerned that proposals not be constructed so as to be detrimental to women by discouraging expansion in coverage and benefits by plan sponsors. We find that some of the provisions of these bills are meritorious. Others, we would suggest, should be given further study before enactment.

Before commenting on specific provisions of the pending legislation, we would like to express some misgivings about the accuracy not only of the statistical data base which others have commented on and which has been used in support of many provisions, but also of the stereotype of women being put forth in the debate. The evidence is unmistakable that the percentage of career women in the workforce has increased substantially in the recent past. These are women whose attachment to the workforce will be steady and long-term and who can be expected to accrue rights to a meaningful pension on their own and not as a result of a marital relationship. Furthermore, many provisions of the pending legislation will not help the women who are now most in need of assistance, that is, those who are of retirement age without sufficient sources of income. We would hope that in the discussions of women's pension equity, federal policies which have advanced the expansion and participation of women in the work force not be reversed.

SUMMARY OF APPLICABLE PROVISIONS OF H.R. 2100/H.R. 2090/H.R. 4032

H.R. 2100 and H.R. 4032 as well as the pension provisions of H.R. 2090 address five major areas of concern to plan sponsors of private sector pension plans. These relate to: periods of employment credited under pension plans; joint and survivor annuity requirements; alienation of benefits in case of divorce; notice to participants of forfeitability of benefits; and cash out of certain accrued benefits.

H.R. 2090 also contains a unisex insurance provision similar to H.R. 100 as well as non-pension issues relating to dependent care, child support and targeted jobs credit for displaced homemakers. H.R. 2090, in addition, would make amendments to the civil service retirement system. With the exception of the unisex provisions, these latter matters have not been the subject of deliberation by the NAM.

We would now like to turn to some specific provisions of the pending legislation which were considered by the NAM.

Assignment and divorce in State law property settlements

H.R. 2100 (Sec. 3, Sec. 4), H.R. 2090 (Sec. 104, Sec. 105) and H.R. 4032 (Sec. 6) would amend the anti-assignment and alienation provisions and preemption provision of ERISA to provide that domestic relations court orders and settlements are enforceable against plans. This would apply only to orders or court-approved settlements that, among other things, provide specific information about the participant and related individual, and are consistent with the terms of the plan regarding the effective date and form of the benefit payment. In addition, a similar bill, the Retirement Equity Act (S. 19), introduced by Senator Dole (R-KS) in the Senate, specifically requires that the amount of the benefit to be awarded to the divorced spouse not exceed the amount of the accrued benefit at the time of divorce.

The NAM receives with general favor the proposed changes to the anti-alienation provisions of ERISA and the clarification of the various parties' responsibilities when confronted with dividing benefits under state court decrees in cases of divorce. While the NAM supports clarification of the fiduciary responsibilities under ERISA in such cases, we would urge that legislation and subsequent regulations in this area be carefully drafted with attention to the very technical issues involved and with consideration for administrative concerns. Among the practical concerns regarding administration, we would include two major items. One is that the amount awarded to a divorced spouse should not exceed the accrued benefit at the time of divorce. Otherwise problems would be created in valuing the joint and survivor interests of subsequent spouses. Another is that Courts should not be able to order an immediate cash-out of the present value of the awarded benefit amount to the divorced spouse. The benefit should be payable only when it goes into pay status for the participant.

This is one of the most important and beneficial provisions of the pending legislation and one for which the NAM would give its endorsement subject to the above qualifications.

Joint and survivor annuity requirements

Section 2 of H.R. 2100, section 103 of H.R. 2090 and section 5 of H.R. 4032 would strengthen the rights of surviving spouses. Under these bills, spousal consent to elect out of a joint and survivor annuity option would be required in writing in order for a plan to continue its qualified status.

Provisions of pending legislation would also require a retirement plan to pay a survivor annuity to the spouse on the participant's death even though the couple might have divorced after the annuity starting date.

Further provisions of H.R. 2100 and H.R. 2090 would create a right to a survivor annuity by the surviving spouse if the participant were to die before the annuity start date and had completed at least ten years of service.

The NAM is concerned that many of the provisions of the pending legislation on J&S might not be as trouble free as proponents contend and indeed might have unanticipated side effects on working women. Specifically on the matter of requiring spousal consent in writing if a form other than J&S is elected, not only would the administrative costs of plan sponsors be far from minimal unless the burden of election were placed on the plan participant but in instances where a woman is the plan participant, she might not want to have a spouse prevent such an election thereby diminishing a significant source of her retirement income. We would ask that the committee be aware of these concerns as deliberations over the legislation continue.

One of the most important and meaningful provisions of H.R. 2100 and H.R. 2090 deals with the problem of forfeiture of vested benefits because of death before retirement. Pre-retirement spouse's benefits which had gained popularity even before they were mandated by ERISA were designed to provide to the surviving spouse of an active employee who, at the time of death had met the requirements for early retirement, the benefits which would have been available had the employee retired on the date of death. However, the problem arises when the participant dies a short time before reaching the early retirement age consequently leaving the surviving spouse with no benefits payable in retirement. This is the case even though the surviving spouse would be covered by life insurance whose payments would begin immediately.

The NAM supports the thrust of the early survivors annuity provision of the various bills which would allow participants who have worked ten or more years under a plan to take a reduction in their expected pension benefits in order to provide a survivor's benefit for their husbands or wives. However, so that administrative costs to plan sponsors would be lessened, we would recommend that the survivor's annuity option be payable only in the event of death of an active employee and that the employee have accrued sufficient benefits so that benefits payable to the surviving spouse be meaningful. This could mean that a participant would be required to reach a minimum age, perhaps 45.

Break-in-service

The Retirement Equity Act (S. 19) introduced in the Senate would require a plan sponsor to credit 501 hours of service for one year of any approved maternity or paternity leave for purposes of determining whether a break-in-service occurred. H.R. 4032 (Sec. 4) contains a provision similar to the Senate bill but would allow an election of the leave in either the year of birth or adoption or the following year. Credit would be given for participation and vesting but not for benefit accrual.

H.R. 2040 (Sec. 108) and H.R. 2100 (Sec. 7) would go further and require that the employee be deemed to have performed 20 hours of service for each week of approved leave whether or not paid during that period. This would make the hours of service regulations consistent with the elapsed time regulations. Thus, if the approved leave exceeded 25 weeks, then the employee would be credited with more than 500 hours of service and thereby not incur a break-in-service. If the approved leave extended for 50 weeks, then the employee would be credited with a full year of service for participation and vesting purposes and at least a partial year of service for purposes of benefit accrual.

The NAM feels that the present break-in-service rules are sufficient. ERISA recognizes that continous employment can be disrupted and provides for rather generous conditions to prevent breaks-in-service as well as to allow for recapture of previous credits upon reemployment. The provisions of ERISA apply to all leaves regardless of the circumstances creating the employment break.

The NAM observes that most situations of normal maternity leave would be more than adequately covered by the current applicable provisions of ERISA. Therefore, separate new rules would clearly be unnecessary. In addition, a disturbing precedent would be set for singling out a specific type of leave for special treatment.

Granting pregnancy/maternity special treatment would also be contrary to the spirit and intention of the Pregnancy Discrimination Act of 1978 (P.L. 95-555). When the Congress passed the 1978 law it specifically mandated that pregnancy be treated the same as any other disability for purposes of coverage under an employment-based plan. To now make different terms and conditions for maternity would be a move to reverse the achievement of nondiscrimination based on sex.

We note that the Administration's bill, H.R. 4032, would include adoptions as well as natural childbirth. While, on the surface, attention has focused on the rearing of one child and the consequent one-year leave of absence, we wonder whether the principals in the debate have given any attention to the situation of numerous sequential births or adoptions and the resulting impact of granting service credit where the employee actually has had very little time on the payroll.

For instance, in a company where an employee would become eligible for approved leave and consequent break-in-service credit after three years of employment, under pending proposals, time away from employment for as long as seven years could result in a situation of full vesting under a ten year cliff vesting schedule. This result seems inconsistent with the acknowledged objective of plan sponsors supported by Congressional intent to provide for retirement benefits based upon years of service and salary earned through active employment.

While observing the adequacy of the present break-in-service rules, the NAM strongly believes that leave should apply for purposes of participation and vesting only and not for benefit accrual.

Periods of employee service: Participation requirements

Both H.R. 4032 (Sec. 2), H.R. 2100 (Sec. 5) and H.R. 2090 (Sec. 106) would lower the age of participation from 25 to 21. In addition, all three bills would lower the age from 22 to 21 for purposes of minimum vesting requirements.

When considering this provision, the NAM noted that many of its members already credit service from the date of employment. However, the Association could not endorse mandating a reduction to age 21 for purposes of participation. There are several reasons for this.

We could find no significant data to support the contention that lowering the age of participation from 25 to 21 will expand retirement benefits for women or even that women as a class will be more substantially covered. Our members are well aware of the generally high rate of mobility among younger workers, particularly those under age 30. This provision, therefore, would open up participation to a group of employees where greater turnover can be expected resulting in additional recordkeeping and administrative burdens for plan sponsors, with little or no benefits accruing to employees.

Even in instances where younger workers do accrue benefits under a plan there is little likelihood of receipt of benefits at retirement. In many instances account balances will be taken in cash at termination of employment and in all likelihood not rolled-over into an IRA, resulting in a type of severance pay rather than a retirement benefit.

Unisex insurance

The Economic Equity Act contains a provision to prohibit, among other things, the use of sex-based insurance tables in the computation of pension annuities and joint and survivor benefits. Other legislation, S. 372 and H.R. 100, relating to unisex have been considered by the Senate and House Commerce committees.

During early deliberations of S. 372 and H.R. 100, NAM actively urged Congress to modify the pending legislation so that unisex would apply only to future benefit accruals and that such calculations be based upon sex-neutral factors derived from merged-gender mortality tables so there would be no "topping up" required.

However on July 6, at the height of Congressional consideration of this legislation, the U.S. Supreme Court decided the long-waited case of *Arizona Governing Committee* v. *Norris* (No. 82-52). There the Court held that it was unlawful for an employer to calculate pension benefits to women base on sex determinants. The Court, however, made its decision only applicable to contribution made to plans after August 1, 1983.

The NAM feels that the issues relating to unisex have been adequately disposed of by the decision in the *Norris* case. We would oppose any expansion of the decision especially if such attempts would mandate retroactive application of the decision.

Effective dates

Compliance with the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) will require significant amendments to most employee benefit plans. So that plan sponsors will be able to reduce or contain the administrative costs associated with amending plans, the NAM would urge that any further changes in the obligations of plan sponsors be coordinated with the applicable prospective effective dates of TEFRA.

CONCLUSION

The National Association of Manufacturers wishes to thank the committee for the opportunity to make constructive comments on pending legislation aimed at assuring pension equity for women. While some provisions are meritorious, others, as we have outlined, should receive further consideration. We would be happy to work with the committee and offer whatever additional technical assistance you would find helpful during these deliberations.

Mrs. **KENNELLY**. Thank you.

Do any other members of the panel wish to speak?

Ms. Mazo, this legislation that we are putting forth today recognizes that a marriage is an economic partnership. Its terms throughout the bill are not gender-specific. We feel this is—what is good for the gander is usually good for the goose.

Ms. **Mazo**. I appreciate that. I am sometimes surprised at people saying this is a bill that will do these things for women and the discussion is well then the wife, she inherits and she gets cut out and that sort of thing.

I just want to remind people that working women are married, too, and may also want to exert a little bit of control over their wages and compensation.

Mrs. **Kennelly**. Absolutely. But the bill is such a mixture, it is for women who have been disregarded as married women for years. I apologize if we misunderstand but it is hard in a bill which was many bills brought into one, to be specific.

But I think we are talking about the same thing.

You suggested that instead of lowering the participation age from 25 to 21 we should keep it at 25 and have credits for those that began working at 21. Although this can be done under the plan where benefits are computed under defined benefit terms, how would you credit a retroactive benefit in a defined contribution situation?

Ms. **Mazo**. You wouldn't be able to. Specifically we are suggesting that the requirement that you pick up service after the fact back to age 21 only would apply to defined benefit plans.

Mrs. **Kennelly**. We are also thinking alike again because in the defined plan, it has to provide a retroactive benefit. Wouldn't this encourage the defined benefit plan to be used?

Ms. **Mazo**. We don't think so for a couple reasons. For one thing the cost of the retroactive benefits we are talking about here would in most cases be very small. For the reasons we are talking about, that is why we don't want to force companies to pick up very young workers at their first job and put them in the plan.

Most of the people in these age groups are either going to leave right away or stay for a while and as the gentleman from NAM said, many large companies already credit this service. The cost is not great.

I believe that there are other considerations in a number of these bills that would have a far more powerful effect in terms of discouraging companies from providing defined benefit plans.

I think all of us here would agree that that would be a terrible loss, particularly from the point of view of workers' families because only defined benefit plans can give credit for retroactive service.

If necessary, or if desirable, only defined benefit plans can give service for periods of extended leave when you are not working for the company.

Only the defined benefit plan can give a meaningful death benefit if the employer chooses, if it is funded for it, if the employee dies at a relatively young age.

I think some of the administrative burdens under the bills would be placed only on defined benefit plans by the early survivor benefits because all these early survivor provisions and spousal consent provisions apply only to plans that provide a defined benefit pension.

Those administrative burdens and costs—they would be costs even though the bills say employers can take the cost into account in reducing the benefit—there would be costs because there are some companies that would just feel that it is unfair to the employees to reduce their benefit to that tremendous degree to compensate for the cost of providing this early protection.

I think it is very important, and I am very glad that Madam Chairman is focusing on the value of defined benefit plans so it gives me the chance to add these other things.

Mrs. KENNELLY. These are the things we want to be sure we have straight. We want to make things better, not worse.

Ms. MAZO. I appreciate that.

Mrs. KENNELLY. I understand the situation where the company has administrative costs being presented with these ideas on top of that. Where we are coming from, before this very committee we have social security problems, social security questions coming up. We address that and we see women who live only on social security.

So I believe in the National Association of Manufacturers, Mr. Phillips' testimony, he mentioned that these things shouldn't have to be administratively given out unless it is a sufficient sum.

We are trying to say to you if you are a widow living on a small social security payment what is a sufficient sum? $100 might be sufficient for a month. Could we have a little exchange on that?

Mr. PHILLIPS. Sure. The point we are trying to make is that the benefit which a person receives in the defined plan is a function of the years of service the person has been covered under the plan itself if you guarantee a benefit to somebody—and I have been in this situation myself many times as a plan administrator—and when it comes time to pay it out the benefit is a small sum, then the reaction is more negative than positive. The person asks, what am I going to do with $12 a month. Here is a big organization, you ought to be able to give me something more than that.

The reaction is it is just too negative.

Therefore what we are saying is that when a plan sponsor makes a promise to give somebody something the company ought to try to build something into it to make it substantive. One of the items we have is thinking in terms of somebody has a minimum of 10 years and at age 45, would hopefully provide that spouse enough time to build up a benefit that would be sufficient.

If that cannot be done, give us the right to pay that person out in the form of a lump sum. I know there are negative connotations associated to giving a lump sum because the benefit was set aside for retirement in an annuity form but it does give us the opportunity to hand that person a check that they can at least do something meaningful with it at that point.

It may be only a couple thousand dollars but that is better than getting $14 or $15 a month or $30 a month for the rest of their life. That is the only point I was trying to make on that.

Mrs. KENNELLY. On that same area you mentioned in your testimony that benefits should only be accrued to people who are active workers. Up to now one of the reasons we are at where we are is because we hear the horror stories of widows who get left when their husband drops dead before retirement and nothing has been done about it.

What about a situation where a man or woman leaves a position for a new job, has an annuity back at that old job, and drops dead. Won't he get the same horror stories? Could you even suggest for us how we might address that?

Mr. **Phillips**. You would not solve that problem by giving the benefit to the active employees. You would still have those horror stories but usually people who go to another job are younger in their age group as far as their working career.

They have offered themselves the opportunity to accrue a pension over the majority of their working life which is ahead of them.

It is a cost/benefit tradeoff that they are making when they leave that job. I think everybody has to face that and it is a responsibility of the individual.

Mrs. **Kennelly**. So we have to continue to wrestle with this as we go along. It is something we are going to have to continue to wrestle with as we go along.

I want to emphasize to you a small amount of money when we look at statistics we have compiled on what women are living on might not be so small and they might not be as upset otherwise.

Mr. **Phillips**. I understand.

Ms. **Mazo**. Can I comment on the active employee question.

We support that proposal as a practical matter which I think is coming from them as a practical matter, recognizing that it doesn't address all the questions because there are certain cases for a very large plan, particularly for multiemployer-pension plans, where the plan may have little or no connection with the employee or with the local employer for whom he works.

There are situations in which it would be impossible for the plan to give a reasonable choice to a separated vested employee. Under H.R. 2090 you could have somebody who worked for 10 years from 25 to 35 and then left and the plan sends out mailings and his address is quite different than it ever was when he was working under the plan's jurisdiction or for this particular very large national company, and he is gone and the plan sends more mailings and they don't hear from him and he gets a letter from the Social Security Administration when he reaches 65, saying now remember you are entitled to $40 a month pension from this plan you worked for in your early years.

He goes and applies and the plan says, you are not going to get $40, you are going to get $18.50 because the rest of it covers the cost of the early survivor protection that you had.

He says what early survivor protection, I don't want it, I am healthy, I was healthy the whole time that you were giving me this protection.

The plan says we couldn't get in touch with you and you cannot decide now that you are healthy that you don't want life insurance last year.

That doesn't work actuarially.

So the plan says, I am sorry, this is your benefit, Congress made us do it.

Increasingly, I have to tell you, we are forced to use the excuse the Government made us do this to you and I don't know how you feel, I am not sure the employees always believe it even when it is true.

The separated vested—which—take the spouse, say his survivor was glad he had the early protection and he was married to somebody when he started working for a particular company at age 21 and he was married to her when he left; then they got divorced; and then he was remarried later on; and then he was hit by a car at age 46.

Which spouse should get the pension benefit from the company? Under the bills introduced I think it is the spouse he is married to on the date of death. Who would have a say on whether he should elect out at any given time?

Communicating with people actually on your payroll is difficult enough. Getting them to focus on making significant benefits issues before their retirement, when they are just a day-to-day worker is hard. It is a proposition that some companies invest a great deal in and have elaborate campaigns to try to get the employees to understand their benefits.

Communicating with far flung people who have had no connection with you or your industry or any of your contributing employers for many years is impossible.

I think really it is out of this sort of frustration with the practicalities of it. It is absolutely right, it is unfair for somebody who left the job last week and dies next week, it is not fair for that person's surviving family to lose out. It is not fair for somebody who is 17 not to be able to participate.

The whole benefits area is based on line drawing. There will always be something very unfair we didn't quite pick up. We are really asking to make it as practical as possible from the point of view of the companies and employees affected by it.

Mrs. KENNELLY. Thank you.

Mr. PHILLIPS. Madam Chairman, I wanted to inform you that the company I work for has implemented many of the provisions being sought here now. I can relate one particular point that I made on policing, that is, who is responsible for getting the employee to get his spouse to sign off on a preretirement matter. We have found situations wherein—asking them to sign off—problems arise when the spouse dies.

It was usually a male who thinks at that point he will outlive everybody he has ever known, and for whatever reason he has chosen a life income option other than a joint and survivor.

We have them sign that the spouse agrees with the elections.

We have had the spouse come back to us within three months after the death of the employee telling us that she really didn't know what he had asked her to sign. It gets into a very difficult situation because you are so sympathetic with the person at that time because her husband may have worked for 30 or 35 years and you know what the situation is and you want to be able to give her some money to live on but according to the plan he signed out and she has written off the fact she knew what he had done at the time.

That is why we feel should this provision become law, company should not be placed in an awkward position at that time. We don't want to have to be the one to police that election. We would like to leave it in the hands of the individual.

We just want to go on the basis that when the form comes back to us, if both parties have signed it, that is what we have to pay on it. Otherwise it becomes a very awkward situation.

Mrs. **KENNELLY**. I appreciate that. How many situations do we have where you better read the fine print? Obviously when the wife is not up to that—that is something we can't legislate. What we are doing is encouraging what you are doing, having the signature opportunity and hoping the man or woman does read what they are signing.

Mr. Fay, you mentioned in your testimony that insurance should be the remedy for preretirement deaths of an individual. We have statistics showing that an average life insurance policy for a widow is $5,000, the average policy for these suddenly single women never lasts more than 2 years.

I would like you to speak more to that. I want you to believe that the legislation we have before us is not trying to encourage a newer or more liberal severance pay situation, it is just trying to show there is more mobility with the worker and we want for women—because some of the statistics show they are not protected—deferred pay. Would you like to elaborate on your insurance alternative?

Mr. **FAY**. Yes, I would. First of all, one of the troubles about the whole pension area is the benefits are not large. So your statistics can be totally valid and not lead to the conclusion of the changes you recommend.

For example, the changes you recommend require a significant amount of actuarial reductions. Based on my experience the benefit would be as inadequate as you feel the insurance coverage is, which will look like a princely sum compared to what an employee will get under the proposals set forth in the bill.

As an example of that, I refer to Ms. Mazo's testimony which has a chart prepared by another pension consulting firm, Kwasha Lipton Actuarial Financial Group, that goes through the benefits people would receive at certain ages under the proposal and under the life insurance. You see that generally people do much better under life insurance.

Would you care to expand on this, Judy?

Ms. **MAZO**. I believe the chart shows what as a percentage of a employee's final pay the surviving spouse would actually get at various ages of death and various combinations of employment.

This takes into account not only the fact that there are reductions in the benefit because of the early age of payments, actuarial reductions; it also brings in the fact that the employee at this young age is likely to have accrued a very small benefit. The spouse ends up getting only half of that.

The far right-hand column shows as a percentage of pay what would be paid to a spouse in these circumstances, and it is assuming a group term life insurance policy maintained by the employer for his employees of one times salary. My experience in most, at least sizable companies, is that the employer-provided life insurance is usually more than one times salary. But one times salary is very conservative and a very standard design for most employers in this country.

So except at the point when the employee spouse was age 55 at death, the surviving spouse will in every case get significantly less than one times pay; whereas under the employer's insurance policy assumed here, the spouse would get at least one times the employee's final year of pay.

Mrs. **Kennelly**. We have other witnesses coming, and this has been very good, but this is something we will continue to have dialog on because I understand where you are coming from with established procedures and tables and things used in the past, and yet where we are coming from is trying to include individuals who have not been allowed to be included.

Mr. Fay, maybe you have an answer to this question: What would be the increased costs of the bill compared to the total costs of pension plans? We are not talking about a lot of money, are we?

Mr. **Fay**. I think the Chamber's main problem with the bill is not its increased costs, although we don't minimize it, but that as people working in the area, we would like to see some sort of casual connection between the problems stated and the solution offered. There seems to be so little of it here.

Most of the horror cases, the example given of somebody 65 and getting a pitiful social security check, these bills won't help. That was the result of a work pattern in the past. We cannot undue the past. These bills are modeled on work patterns, histories that are no longer true.

Let me give you one example.

Mrs. **Kennelly**. Mr. Fay, I have to tell you we have to do two things here. We have to take care of the new work force with more women working, but we have to take care of the women who have not been protected in the past.

Mr. **Fay**. These bills don't do that.

Mrs. **Kennelly**. We have always been accused of looking at one group. We want to look at the entire group.

Do you have any questions, Mr. Duncan?

Mr. **Duncan**. I have no questions, I would like to associate myself with your questions.

Mr. **Romig**. I totally agree with your observation that we have two groups to protect, those who are in the work force and those who are outside the work force.

Mrs. **Kennelly**. Then we add the universal group—only women can have children and only women have to take that time off.

Mr. **Romig**. Agreed. Our problem is basically twofold, we all share that problem, one is that most of the changes, while they don't cost much to our plans, they don't buy much in the way of added protections either. The work force patterns of our employees are such that they are really not going to benefit from the changes. There will be a very limited amount of added protection, but that added cost is going to be one more barrier for all of those small employers across the country who have yet to provide a pension plan.

The second more significant problem affecting a broad constituency of employers is that we are headed very rapidly to a two-tiered system in which there are those employees who happen to be working where there are benefits and those employees who happen to be working where there are no benefits. That problem, I submit, will be much larger than the problems we are addressing today.

Mrs. **Kennelly.** Thank you. I would like to thank you all. Even though we got into a dialog, each and every one said in your statements you did agree with the good parts of what we are trying to do. That is excellent that we do.

We will keep this discussion going on, and I hope it will be all right if we do because when your testimony is read, you will get calls and questions. Thank you.

Pension Rights Center, Anne Moss, director for women's pension project; Geraldine Compton; Pat Tice; Geneva Burgess; Fran Theis; Kent Guida, legislative director, Independent Retirement Alliance; and James Timothy Kelly.

It is very nice for the Chair to see Congressman Broomfield joining us. I would call on him at this time.

INTRODUCTION BY HON. WILLIAM S. BROOMFIELD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. **Broomfield.** Thank you very much, Madam Chairman, and Congressman Duncan. I am honored to be here. I want to first congratulate you on the hearing you are holding on this important subject matter. I have a constituent of mine from Birmingham, Mich., she is a housewife, she is a mother of four, and she has got some views she would like to express to the committee with respect to the IRA program.

Mrs. **Kennelly.** Thank you very much.

Mr. **Broomfield.** She is Mrs. Ronald Theis.

STATEMENT OF FRAN THEIS, BIRMINGHAM, MICH.

Mrs. **Theis.** Thank you very much, Congressman.

Madam Chairman, I am a homemaker and mother. I am a working, socially responsible, non-wage earner who is not individually eligible to provide for her retirement with the accumulation of tax-deferred funds invested in IRA's.

I am here to express an opinion which I believe may be shared by many of the more than 18 million nonwage earning homemakers in our country on the necessity for change in IRA regulations in order to make the laws more sensitive to equality among all of the productive, contributing members of our society which, in my opinion, includes homemakers and moms, like me.

Let me tell you a little about myself. I hold a bachelor of arts degree from Western Illinois University in English, French, and music, and a master of science degree in communications from Boston University. My work experience prior to the birth of our first child was at the management level with major companies in New York, New Jersey, and California.

A little over a year ago I was told by two New York-based headhunting firms that if I were employed full time, I could be earning somewhere between $40,000 and $45,000 a year. And yet I choose to stay at home and be a mom, and try to raise capable, responsible future citizens in the belief that I am best qualified to rear them.

One of the signs my husband and I had that it was worthwhile for us to forego my earning capability in order for me to concentrate on motherhood can be seen in this 1979 clipping from the front page of The Detroit News. The story tells how all three of our boys learned to read quite well before the age of three.

That, of course, compares favorably with the national illiteracy statistics. The boys are older now but the abilities the children acquired at an early age, at home, are still helping them in their struggle to understand the world and learn the skills they are going to need as adults.

For me, and I think for thousands of other mothers who would tell you so if they could, there is a personal commitment to raising quality people who will be positive forces in our future society. We have made a commitment that precludes employment outside the home, in spite of our capabilities or earning power.

I think that we moms are, indeed, making contributions to the development and stability of our country, even if we aren't collecting paychecks for those contributions, and that we should not be penalized for our choice of careers by being excluded from accumulating retirement funds as individuals in our own rights with IRA's.

Now, let me briefly cite another way that we nonwage earners contribute to society. Again, I will use myself as an example. For the last 2 years I have been responsible for a small part of a fundraising group which raised about $200,000 for Children's Hospital of Michigan in that period of time.

The group I was in charge of collected about $23,000 of that total. Over $100,000 was used by the hospital to complete research on a tissue PH probe, an instrument that is so revolutionary and important to the medical world that it soon may be as common in intensive care units as the EKG.

The hospital's funds for research on the lifesaving instrument ran out before tests were completed, and the work was finished only because of the funds raised by our volunteer fundraising group. Importantly, the new medical instrument can be used on persons of all ages, not just children, although it was originally designed for infant surgery.

This year, the funds we have raised will go toward combating child abuse.

Now, a point I want to make very clear is that as a homemaker and mother, I am certainly not unique. There are involved, community-minded women all over the country. Perhaps I am unusual in that I am willing to spend my time and money to come here to talk to you with no organization or company behind me, but I am only one of volunteers numbering in the millions who are contributing to society in the small, personal ways that add up to a healthy society.

To bring these questions into perspective, let me tell you what happened in numerous households in my area when the potential dollar amount of IRA's was increased a few years ago and yet limited to wage earners. Most of the women I spoke with recognized the tremendous benefit of IRA's, and began searching for part-time work in order to make $2,000 to put into them. Some are now employed part time. Many chose to continue to be full-time homemakers and lose that potential accumulation of funds.

I have to question whether a homemaker's small amount of free time is better spent earning a minimum part-time wage in order to have an IRA or contributing to the general good in a necessary volunteer position. There is a large group of well-educated employed women who will become homemakers in the future who might be encouraged to replenish volunteer leadership roles. One way to help assure that they do is to make IRA's available to them whether or not they are wage earners.

In conclusion, I hope to retire from my job as homemaker in about 20 years. When I do, I don't want to have to be dependent on someone else, especially the Government, to take care of me. I would like the dignity of being able to provide for myself. I would like the opportunity to save for retirement in a manner which is equal to the opportunity available to wage earners, and I am sure that many other hard-working homemakers in this country who don't happen to bring home paychecks would like that opportunity as well.

Specifically, I would like to see IRA regulations change, retroactive to the date of initiation of the IRA, to allow nonwage earners to accumulate retirement funds as individuals in their own rights, in the same amounts as wage earners.

[The prepared statement follows:]

STATEMENT OF FRAN THEIS (MRS. RONALD L. THEIS), BIRMINGHAM, MICH.

SUMMARY

The witness, a non-wage earning homemaker from Michigan, urges changes in IRA regulations, retroactive to the date of initiation of the IRA, to allow non-wage earners to accumulate retirement funds as individuals in their own rights, in the same amounts as wage earners.

STATEMENT

Gentlemen and ladies . . . My name is Fran Theis, and I'm a homemaker and mother. I am a working, socially responsible, non-wage earner, who is not individually eligible to provide for her retirement with the accumulation of tax-deferred funds invested in IRAs. I'm here to express my point of view—and the point of view which I believe may be shared by many of the more than eighteen million non-wage earning homemakers in our country—on the necessity for change in IRA regulations, in order to make the laws more sensitive to equality among all of the productive, contributing members of our society which, in my opinion, includes homemakers and Moms like me.

Let me tell you a little about myself. I hold a Bachelor of Arts degree from Western Illinois University in English, French and Music, and a Master of Science degree in Communications from Boston University. My work experience prior to the birth of our first child was at the management level with major companies in New York, New Jersey and California.

A little over a year ago I was told by two New York based head-hunting firms that if I were employed full-time, I could be earning somewhere between forty and forty-five thousand dollars a year. And yet I choose to stay at home, and be a Mom, and try to raise capable, responsible future citizens, in the belief that I am best qualified to rear them.

One of the signs my husband and I had that it was worthwhile for us to forego my earning capability in order for me to concentrate on motherhood can be seen in this 1979 clipping from the front page of The Detroit News. The story tells how all three of our boys learned to read quite well before the age of three. That, of course, compares favorably with the national illiteracy statistics, which are finally being recognized as a national problem. The boys are older now but the abilities the children acquired at an early age, at home, are still helping them in their struggle to understand the world, and learn the skills they're going to need in order to be productive members of society and perhaps our future leaders.

For me, and I think for thousands of other mothers who would tell you so if they could, there is a personal commitment to raising "quality people" who will be positive forces in our future society. We have made a commitment that precludes employment outside the home, in spite of our capabilities or earning power. I think that we Moms are, indeed, making contributions to the development and stability of our country—even if we aren't collecting pay checks for those contributions—and that we should not be penalized for our choice of careers by being excluded from accumulating retirement funds as individuals in our own rights with IRAs.

Now, let me briefly cite another way that we non-wage earners contribute to society. Again, I'll use myself as an example. For the last two years I've been responsible for a small part of a fund-raising group which raised about $200,000 for Children's Hospital of Michigan in that period of time. The group I was in charge of collected about $23,000 of that total. Over $100,000 was used by the hospital to complete research on a tissue PH probe, an instrument that is so revolutionary and important to the medical world that it soon may be as common in intensive care units as the EKG. The hospital's funds for research on the life-saving instrument ran out before tests were completed, and the work was finished only because of the funds raised by our volunteer fund-raising group. Importantly, the new medical instrument can be used on persons of all ages, not just children, although it was originally designed for infant surgery.

This year, the funds we have raised will go toward beginning a SCAN team, an acronym for Suspected Child Abuse or Neglect, at Children's Hospital.

Now, a point I want to make very clear is that as a homemaker and mother I'm certainly not unique. There are involved, community-minded women all over the country. Perhaps I'm unusual in that I'm willing to spend my time and money to come here to talk to you with no organization or company behind me, but I'm only one of volunteers numbering in the millions who are contributing to society in the small, personal ways that add up to a healthy society.

Can you imagine, for instance, schools without PTAs to raise the funds to buy necessary equipment when local, regional or federal funds are changed or eliminated? Can you imagine the cost of running a hospital without the volunteer staffs? Without homemaker volunteers, who would collect for charities which provide necessary social services, bring sunshine into nursing homes and hospices, and transcribe for the blind? And the most important question of all . . . without Moms at home, who would raise the children, and transfer the higher value systems to our future citizens?

To bring these questions into perspective, let me tell you what happened in numerous households in my area when the potential dollar amount of IRAs was increased a few years ago and yet limited to wage earners. Most of the women I spoke with recognized the tremendous benefit of IRAs, and began searching for part-time work in order to make $2,000 to put into them. Some are now employed part-time. Many chose to continue to be full-time homemakers and lose that potential accumulation of funds. I have to question whether a homemaker's small amount of free time is better spent earning a minimum part-time wage in order to have an IRA, or contributing to the general good in a necessary volunteer position. There is a large group of well-educated employed women who will become homemakers in the furture who might be encouraged to replenish volunteer leadership roles. One way to help assure that they do is to make IRAs available to them whether or not they are wage earners.

In conclusion, I hope to "retire" from my job as homemaker in about twenty years. When I do, I think I will have contributed enough to society to deserve a decent standard of living and further, I don't want to have to be dependent on someone else, especially the government, to take care of me. I'd like the dignity of being able to provide for myself. I'd like to begin saving for my retirement right now, by putting substantial amounts of money away in IRAs, not just a fraction of my husband's eligible amount. I would like the opportunity to save for retirement in a manner which is equal to the opportunity available to wage earners, and I'm sure that many other hard-working homemakers in this country, who don't happen to bring home pay checks, would like that opportunity as well.

Specifically, I would like to se IRA regulations change, retroactive to the date of initiation of the IRA, to allow non-wage earners to accumulate retirement funds as individuals in their own-rights, in the same amounts as wage earners.

Thank you for your attention.

[From the Detroit News, May 27, 1979]

AT 3, HE'S MAN OF LETTERS—BUT SCHOLARS DEBATE WORTH

(By August Gribbin)

After 18 years of schooling and one intense speed-reading course, I can read better than any 3-year-old I know.

Except, maybe, Robbie Theis, a Birmingham youngster who has been poring over books since his eyes began to focus. His mother, Mrs. Floyd Theis, says Robbie and his two older brothers (also early readers) aren't geniuses. Yet they've about mastered the system of word recognition called phonics, and while it may be facetious to say they can read better than adults, they come impressively close.

Too close and too soon, according to some educators and behavioral scientists.

But Mrs. Theis, who has a master's degree in communications, is convinced children need highly developed verbal proficiency merely to cope in today's information-saturated society. She theorizes that if a a young child can hear and understand complex sounds, associate them with objects and speak, the child can relate written symbols with sounds and "read." And so far as her children are concerned she's right.

Specialists advise reading to a child frequently, teaching him only when he clearly demonstrates interest in learning. Mrs. Theis says it's a rule she has followed. As a result, she says, her boys seem quick to grasp new ideas and words.

A 3-year-old who can read is rare, not unique. Still it's stunning to observe Robbie climb to his mom's lap, open the cover of a book randomly fetched from a library and, beginning with title and author, read:

" 'The Beach Before Breakfast' by Maxine W. Kumin. I lean over your bed and shake you gently, once, twice. You rub your eyes before you open them. When you see me, you smile. 'Shh!' I say. 'Don't wake up the others,' and you say 'Shh!' back . . ."

Mrs. Theis explains:

"Ron, my 6-year-old, asked me the other day when he had learned to read. He couldn't remember, it came that naturally. We never have 'pushed.' But Ron and his brothers learned to read letters at about the time they learned to talk."

MAYBE JOHNNY CAN'T READ BUT ROBBIE, 3, CAN

"By 3 they were reading simple children's books. By age 5, Ron was reading at 90 percent of the accepted fourth grade level. And at 4 years, 10 months his brother Bryan was reading at 95 percent of the fourth grade level."

Mrs. Theis and her husband hung or painted big letters on the walls and ceilings of the children's rooms, made "alphabet books" and cardboard letters for the tiny chaps to lug around like toys. They also got the kids jigsaw puzzles that form letters when assembled.

Among other things, the effervescent Mrs. Theis told "stories" about the letters of the alphabet. She labeled items around the house. Chairs and tables had big, bold "chair" and "table" signs on them.

The Theises talked to their children about letters and words, showing them the printed symbols that represent sounds. They read to the infants often and, taking their tiny fingers, pointed to the letters and words and to the pictures that related to them.

The Theis children lack many of the ideas that make words throb with meaning for you and me. Partly because of that, psychologist Edith Grothberg, a research director at the federal Administration for Children, Youth and Families, said:

"To teach a 3-year-old to read isn't necessary. But to help the very young child to develop precursors to reading is important. He must learn colors, shapes, vocabulary—be talked to, read to, questioned.

"There is a group that urges not to teach reading or much of anything before first grade. I disagree. But some children's eye muscles are too weak for reading. They can't be ready to read at 3, and there are so many other things for them to focus on at that age."

James F. Kavanagh, Ph.D., a ranking official at the National Institute of Child Health and Human Development, says the government is involved in trying to determine when children are ready to read.

"It's a real hard question, close to profound," he says. "Our reseach seems to be screaming that children vary tremendously. Some kids seem better wired at birth to better understand words; others need . . . (much) language experience.

"Schools sometimes are not able to cope with the child who reads well," he said. "They don't know whether to skip the child (over various grades) or what." It's important, he added, that the early-reading child get the experience of socializing with peers at his normal grade level and that the teacher "let him read at his own pace."

Professional educators, long embroiled in controversies over students who cannot read—sometimes even by the time they graduate from high school—remain to be convinced that reading at a younger age is the ideal solution.

A scholarly approach to the problem was begun recently by the 1,800,000-member National Education Association (NEA), composed of teachers, and the 70,000-member International Reading Association, a scholarly group. Just a few weeks ago they established the Institute for the Study of Reading.

"The argument over whether 'Johnny can't (or can) read' has been foremost in the discussion of education for generations, and has often been based on contradictory, incomplete, or even biased, analyses," the NEA stated. "Frequently the discussions and conclusions—warranted or not—have led to changes in educational curriculum, methods and standards that might otherwise be questioned."

In the book "How to Teach Your Baby to Read," reading specialist Glenn Doman, director of Philadelphia's Institute for Achievement of Human Potential, declares people diminish the child's desire to learn by "limiting his experiences" and "by drastically underestimating what he can learn." Doman writes:

"There have been isolated but numerous cases of people who have actually taught tiny children to read . . . by appreciating and encouraging them. The results . . . ranged from 'excellent' to 'astonishing' in producing happy, well-adjusted children with exceptionally high intelligence."

Psychologist Rene Fuller has taught the very young and even severely retarded to read with a system that reduces the alphabet to "three basic forms, the line, circle and angle."

But it's entirely unnecessary to teach babes in arms to read, some educators contend. And behaviorists warn that a child's emotional growth could be adversely affected if parents "drill" or "try to force" infants to read.

Mrs. KENNELLY. Thank you very much for your testimony.

Anne Moss.

STATEMENT OF ANNE MOSS, DIRECTOR, WOMEN'S PENSION PROJECT, PENSION RIGHTS CENTER

Ms. MOSS. I am Anne Moss, with the women's pension project which gives assistance to women concerned about their retirement security. The project is part of the Pension Rights Center, a public interest group working for a retirement system that is fair, adequate, and responsive to individuals and the economy.

We have heard from a lot of women who do not get the benefits they expected to get. These women couldn't understand why not. At last we can give them encouragement, and we are happy this committee is looking at the Economic Equity Act. It is fitting that that encouragement comes from this committee because it was this committee last year that took the first steps toward pension equity since enactment of ERISA.

Since the passage of TEFRA, this committee made a commitment to pension equity by giving hundreds of thousands of women who work in small offices their first chance to earn the right to a pension. TEFRA will require top-heavy pension plans to permit workers to earn the rights to benefits more quickly than they do now. Today you are looking at the second step toward pension equity for women.

I will ask the entire statement be put in the record.

Mrs. KENNELLY. Without objection.

Ms. MOSS. I will focus on the widow's pension provisions today. When the husband has spent 30 or 40 years under a pension plan, the wife who stayed at home to help him earn that has a right to see that pension also.

Statistically, we know that a wife can probably expect to outlive her husband, but unfortunately ERISA doesn't require plans to offer widows' pensions in every case. Whether a particular widow ends up with a pension seems to depend on her luck.

We think the most progressive provision of the Economic Equity Act is the one that would remedy the most tragic and most common of all situations that have come to our attention over the years. This is where a husband has worked a lifetime under a plan and earned the right to a substantial pension but then dies a few months, days, or even hours too early.

A husband who wants to protect his wife in case he dies before retirement usually doesn't have to be given the chance to sign up for widow's benefits until a certain age, usually age 55. No matter how long he has worked, despite the fact he was vested, his pension simply disappears if he dies before the magic age.

The Economic Equity Act would require pension plans to provide a survivor's pension to a widow whose husband worked at least 10 years under the plan, no matter when he dies, unless both husband and wife agree in writing to give up the widow's protection. This survivor's benefit would first be available to the widow in the calendar year in which the husband could have collected his own pension.

This increased protection for widows need not cost the plan any additional money for benefits. It is aimed at those women most likely in need of protection; that is, lifetime homemakers.

I want to note that the benefits provided by this section need not cost employers any additional money. The cost of the preretirement age widow's benefits protection—and there is a cost, since plans now can count on a certain number of people dying too soon—can be borne by plan participants and not by the plan's sponsors.

We think the important thing is that women who spend part or all of their adult lives as homemakers need to know that pension law acknowledges their contributions toward earning their pension. The types of protections contained in the Economic Equity Act would come close to meeting this goal.

Thank you.

[The prepared statement of Anne Moss follows:]

STATEMENT OF ANNE MOSS, DIRECTOR, WOMEN'S PENSION PROJECT, PENSION RIGHTS CENTER

Mr. Chairman, Members of the Ways and Means Committee, my name is Anne Moss. I am Director of the Women's Pension Project, which provides information and assistance to women concerned about their retirement security. The Project is part of the Pension Rights Center, a public interest group working for a retirement system that is fair, adequate, and responsive to the needs of individuals and the economy.

Over the past seven years, the Pension Rights Center has received hundreds of letters from women all over the country who have not received the pension benefits they anticipated and desperately need. In each case, these homemakers and workers had done everything expected of them and resonably assumed—and in many cases had been told—that their retirement income needs would be taken care of by a pension plan. In each case, the women were bitterly disappointed. They could not understand how they could have been treated so harshly, so arbitrarily denied the money they desperately need to survive in retirement. Now we are able to say to these women that there's hope that the inequities they have experienced will not be allowed to happen to other women.

It is fitting that the encouragement comes from this Committee, the Committee that last session took the very first step toward pension equity since the enactment of the Employee Retirement Income Security Act of 1974. Through the pension provisions of last year's tax act, the Tax Equity & Fiscal Responsibility Act of 1982, the House Ways and Means Committee made a courageous commitment to pension equity by giving hundreds of thousands of women who work in small offices their first chance to earn the right to a pension. TEFRA will require "top-heavy" pension plans to permit workers to earn the right to benefits more quickly than they do now. The targeted plans, which have been paying 60 percent or more of their benefits to "Key" employees, will now have to provide full vesting to employees on the job three years, or gradual vesting over a six-year period. When TEFRA goes into effect next year, secretaries, clerks, bookkeepers, nurses, receptionists and paralegals in small businesses and professional offices will finally see a return on the pension investments they have been making—with their salaries and taxes—all these years.

Today, you are considering the second step toward pension equity for women. The bills before the Committee contain several provisions that will be of very great benefit to women. Although we are committed to strengthening the pension rights of women at home and in the workforce, under both private and public pension systems, today I would like to focus on those private pension provisions that address the special problems faced by homemakers.

About half of all women are working fulltime in the home. From the perspective of these women, pension benefits represent money that they have helped earn and money that they must have if they are to make ends meet in retirement. These women stay home with the understanding that all income earned during a marriage is shared family income, including income deferred until retirement. This is certainly how the income is treated during the marriage by husband and wife and by our federal tax system. When a husband has spent 20 or 30 or even 40 years under one pension plan, his wife, who stayed at home to make it possible for him to earn the pension, has every right to expect the pension to see her through retirement also, whether or not her husband happens to be there with her.

Yet through no fault of their own, many women find that a pension lasts only as long as the marriage does. They cannot understand why the pension so easily disappears when their husbands die or divorce them.

HOMEMAKERS WHO ARE WIDOWED

Statistically, a wife can expect to outlive her husband, but statistics also tell us she probably won't get a pension once he's gone. For example, less than 40 percent of retirees choose to provide survivors pensions for their spouses. ERISA requires plans to offer widows' pensions in some cases, though not in every case. Whether a particular widow receives a pension depends on her luck: Will her husband select the right benefit for her? Will he die in the right year or at the right age? Will he die for the right reason?

(1) Consent to waive widows' benefits.—H.R. 2090 addresses the problem of the husband who decides to leave his widow without a pension. Even in those situations where ERISA requires a plan to offer a widow's benefit, a husband need not accept it (and many don't). Providing for a widow usually means the retiree must accept a permanently reduced benefit for himself. He is under no obligation to ask his wife what she wants, or even tell her what he has decided.

A Pennsylvania woman wrote us that her husband worked for 43 years for the same company but finally had to retire because of lung cancer. Although he had agreed to provide a benefit for her, he changed his mind at the last minute. the widow writes, "My husband fell victim to the lure of the larger pension check. Isn't it ironic that he only lived to collect his larger check for two months? I have to now live with his decision for possibly 20 years, God willing."

Many men, like this one, just gamble that they will outlive their wives, even though they may be in ill health. H.R. 2090 would require a husband to obtain his wife's written consent before he gives up her right to a widow's pension. But even where the husband is willing to take a reduced benefit to provide this all-important protection, there are situations where he is not able to do so.

(2) Divorce after retirement.—H.R. 2090 addresses one of these situations—that of the husband who divorces his wife after he has retired and has started to receive this permanently reduced pension.

H.R. 2090 would permit, but not require, a husband whose divorces after he retires to name his former wife to receive the widow's pension.

(3) Widows of the pre-ERISA workers.—H.R. 2090 would help some women whose husbands happened to leave their jobs at the wrong time.

Mrs. Marion Fynan won't get a share of her husband's 20-year pension with New Jersey Bell, simply because her husband left the company *before* 1976 when the ERISA survivors' benefit provisions went into effect. Mr. Fynan, who has not begun collecting his pension, has been trying for years to persuade the company to allow him to take his future benefit in a reduced form. But the company says no, even though it will not cost them anything.

H.R. 2090 would require plans to offer married workers who left their plans before 1976 the chance to provide a widow's benefit.

(4) Husbands who die "too soon".—H.R. 2090 will remedy the most tragic—and also the most common—of all the situations that have come to our attention over the years. This is the situation where a husband has worked a lifetime under a plan and has earned the right to a substantial pension, but then dies a few months, days, or hours too early.

Marie Tasy is being forced to sell the house in which she raised her five children in Royal Oak, Michigan, because she denied a pension after her husband died one month before age 55. Despite her husband's 17 years in the foundry at Chrysler, the company told her, "He just should have waited to die."

A husband who wants to protect his wife in case he dies before retirement usually doesn't have to be given the chance to sign up for widow's benefits until a certain age—typically age 55. No matter how long he's worked, despite the fact that he was vested, his pension simply disappears if he dies before the "magic" age.

H.R. 2090 would require pension plans to provide a survivor's pension to a widow whose husband worked at least ten years under the plan, no matter when he dies, unless both husband and wife agree in writing to give up the widow's pension. The pension would first be available to the widow in the calendar year in which her husband could have collected his own pension. This increased protection for widows need not cost the plan any additional money for benefits. This provision is aimed at those widows most likely to be in need of protection—lifetime homemakers. Mrs. Tasy and other women like her stayed home with the understanding that their husbands' wages were family income. They were led to believe that they were earning their husbands' pensions as much as the husbands. That was the understanding, that was the deal. Maybe they never said it in so many words, but these couples based their entire married lives on the promise that theirs was an economic partnership.

Had Mr. Tasy lived another month, his wife would have received a pension for life. As it is, her only retirement income will be social security.

Social security is not enough to live on, as the Members of this Committee know so well. Average benefits are still only about $5,000 a year for people retiring now after a lifetime of work. This is $3,000 less than the Bureau of Labor Statistics has estimated is needed to live modestly in most cities. Social security benefits are being kept at this minimal level because it is assumed that people will have other sources of income in retirement.

Marie Tasy had no savings. The few widows who do have savings haven't enough to provide them the lifetime monthly income they need at retirement. They feel lucky to be able to pay for their husbands' furneral expenses.

Few people at the average of lower income ranges can afford to save voluntarily for retirement. Their only hope is a pension. Without a pension they are destined to join the millions of older women for whom the lack of a pension has meant poverty.

HOMEMAKERS WHO ARE DIVORCED

In the time remaining, I would like to turn briefly to the divorce provisions of H.R. 2090. The intent of these provisions is to clarify that state domestic relations laws (rather than ERISA) apply when pensions are divided at divorce.

Many women who are awarded pension shares would like to receive their benefits directly from the plan. But in spite of an order from the divorce court, some plans have refused to pay a divorced wife her share of the benefits, on the grounds that ERISA makes it impossible for them to pay benefits to anyone other than the pensioner himself. The courts have consistently ruled against the plans, finding that Congress meant to protect pensioners from creditors, not shield them from their family responsibilities. But until this rule is clarified in federal law, there will inevitably be divorced women who will still be put to the great expense of going back to court to compel plans to comply with state court orders.

We think the best approach to this problem would be the simplest: a provision saying only that ERISA's assignment prohibition not apply to court orders relating to child support, alimony, or marital property. If you go any further than this you are creating a federal law of pensions and divorce, telling state courts what they may and may not do in shaping their decrees.

In conclusion, I would like to make two points. The private pension system exists as a creature of federal tax policy. As American taxpayers we pay billions more each year in order to encourage employers to set up and maintain private pension plans. Congress has provided this tremendous tax subsidy—the largest of all the federal tax expenditures—because social security does not provide enough to live on, and because pensions represent the most realistic supplement to social security for average and lower income workers and their families. If we did not have pensions, we would undoubtedly have an expanded social security system as do many other industrialized countries.

Second, it is important to note that the benefits provided by the sections I have discussed will not cost employers any additional money. The consent and divorce provisions are "cost free." The cost of the preretirement age widows benefits protection—and there is a cost since plans now count on the forfeitures resulting from preretirement age deaths—can be borne by the plan participants themselves, and not by the plan sponsors (as was the case under an earlier version of this provision introduced into a prior Congress).

It is true that adoption of provisions such as those in these bills will require changes in plans at a time when employers, particularly smaller employers, are feeling excessively burdened. We feel strongly that all efforts must be made to spare employers additional costs and burdens. Every dollar that goes to pay a lawyer or actuary to draft a plan amendment or seek requalification of a plan is a dollar taken away from much needed benefits. But we believe that this Committee can draft legislative provisions that will not be burdensome to employers.

The important thing is that women who spend part or all of their adult lives as homemakers need to know that pension law acknowledges their contributions toward earning the pension. The types of protections continued in H.R. 2090 would come close to meeting this goal.

Thank you for the opportunity to appear here today.

Mrs. **Kennelly**. Thank you.

Kent Guida.

STATEMENT OF KENT GUIDA, LEGISLATIVE DIRECTOR, INDEPENDENT RETIREMENT ALLIANCE

Mr. **Guida**. I am Kent Guida, legislative director of the Independent Retirement Alliance. I fear that my remarks might appear pale and lifeless after the excellent testimony of Mrs. Theis, who put this question in a very personal and moving context.

The Independent Retirement Alliance is a project of the National Taxpayers Legal Fund, a 501(c)(3) foundation with over 50,000 current contributors concerned with Federal taxing and spending policy. The goal of the alliance is to expand the individual retirement account system to provide a way for people to save and invest for their own retirement independent of social security.

The chief weakness of the IRA portion of the Economic Recovery Tax Act of 1981 was its failure to provide nonworking spouses adequate access to this savings vehicle. Despite the fact that the purpose of the act was to promote greater retirement income security by increasing the amount which individuals could set aside in an IRA, married couples with one earner did not receive the same treatment as couples who both worked. The two-earner couple is currently allowed a $4,000 tax deduction, while the couple with one breadwinner and a nonworking spouse is limited to a $2,250 deduction.

It has already been widely observed that this discrepancy makes no sense in view of the stated purpose of the original legislation. It undermines the ability of the traditional family to provide for its retirement, thus creating an artificial incentive for couples to both work for wages or salaries.

At present, a couple with one earner can deduct only 56.25 percent of the amount allowed the two-earner couple. Over a working lifetime, say 30 years, figuring a conservative 5 percent return on IRA investments, a two-earner couple can amass $265,755, while a one-earner family would end up with only $149,487. Yet the need for retirement income of these two hypothetical families is likely to be the same; there are still two individuals to support.

In addition, the present treatment of nonworking spouses creates pressure for both spouses to work away from the home, thereby undermining the traditional family structure and restricting the individual's freedom to make work family and child rearing decisions. Government has no business interfering with a family's most private and personal decisions. It is our belief that the current spouse requirements were an oversight in the original legislation and were not intended to have these consequences.

Fortunately, all these shortcomings in the 1981 legislation can be overcome by adoption of H.R. 2090 which would allow individuals to compute the deduction for IRA contributions on the basis of compensation of their spouses and to treat alimony as compensation for the purpose of the IRA deduction.

This would place the one-earner couple on the same footing as the two-earner couple and end the present discrimination.

It is very gratifying and encouraging to see the wide range of public opinion lining up in support of this measure. It indicates that observers from all parts of the political spectrum recognize the inequity of the current statute. H.R. 2090 represents a bipartisan remedy of the best sort.

It is also significant that so many groups and individuals recognize the importance of the individual retirement account system for the future security of all Americans. More and more people are realizing that they cannot rely on social security to provide future retirees the same level of benefits being paid to current social security recipients despite the ever-increasing social security tax burden.

In fact, today's young worker faces the prospects of receiving little or no real rate of return on the taxes he or she pays into the social security system. The Individual Retirement Account system offers the best and simplest alternative to the intractable problems of social security. IRA's give everyone the opportunity to save for their future and keep ownership and control over their own retirement fund.

The system has already generated over $80 billion in investment capital and in time will produce a truly staggering amount of capital which will boost the productivity and create new jobs. Perhaps most significantly, it will offer every worker the chance to become knowledgeable and competent in financial management and will promote understanding and commitment to a free economy and the institutions that support it. Perhaps no other reform holds as much potential for bringing about constructive change in our society as the expansion of the IRA system.

The Committee on Ways and Means has already adopted the proposal of Representative Henson Moore to permit additional nondeductible IRA contributions. Adopting H.R. 2090 and removal of the unjustly low limits on IRA contributions of nonworking spouses will be another important step in establishing a fair, attractive, and viable IRA system.

Thank you for allowing me to present this testimony.

Mrs. **Kennelly**. So that we won't hold up too long, why don't we take a break now for exactly 10 minutes and be back.

[Recess to vote.]

Mr. **Matsui** [presiding]. The committee will be in order.

Mr. Kelly, would you like to proceed, please?

STATEMENT OF JAMES TIMOTHY KELLY, DOUGLASTON, N.Y.

Mr. **Kelly**. Thank you, Mr. Chairman.

Mr. **Matsui**. Perhaps you could use the microphone to your right.

Mr. **Kelly**. Thank you, ladies and gentlemen of the committee, good afternoon.

I have brought you a surprise, maybe two surprises. In my last appearance before the committee I made four requests and three of them have been granted.

I ask that responsible citizens who save for their own retirement not be taxed on their savings. You granted an IRA program.

I asked for a five-level graduated corporate income tax to aid small business, you granted it.

I asked that a working couple be granted an additional tax deduction to reflect the added cost of having two people work. You granted a working spouse deduction.

I thank you for being so responsive to my suggestions.

Most people would say three out of four ain't bad and quit, but I don't want to quit while the problem is unfinished.

My fourth request a decade ago was that you act to lower interest rates so more families could own homes. Many of today's women's problems are derived from high interest rates and subsequent lack of homeownership. I think that problem can still be addressed. The past decade has shown that neither world leaders, business leaders, Nobel Prize winners, nor our MacArthur Prize winners have been able to show us how to lower interest rates.

I return today to suggest how it can be done. I would like to show a plan to reduce interest rates to a point where it would be possible to pay off the national debt by the year 2000. The fallout benefits are almost beyond calculation. Actor Jack Klugman in his role of "Quincy" uses a small slice of skin tissue to study an entire body. I will use a small slice of the national debt to illustrate the arithmetic of the entire national debt.

Here is a $100 bill.

At this time we pay about 12 percent interest on the entire national debt. That is, $1 per month interest on each $100 of national debt. The principal remains unchanged. Being a curious person I inquired what would happen at a lower interest rate? This modern book of mortgage tables starts at 9 percent. I wanted still lower rates.

This older book, lists rates only as low as 5 percent, so I settled for a 5-percent rate.

At 5 percent interest the same $1 per month per $100 of debt will pay off a full $100 debt in 11 years. Let me rephrase that. The $1 per month per $100 of debt is now paying only the interest expense at a 12-percent rate. It doesn't reduce the debt ever. But at a 5-percent interest rate the same $1 a month per $100 which we are now paying will pay off the entire national debt in 11 years.

Thank you, McGraw Hill.

That is the arithmetic. Now for the politic. I must walk you down an old path of the history of tax rates. When the income tax amendment was approved in 1913 the corporate income tax rate was 1 percent, interest costs became a deductible expense and the corporate profits became subject to double taxation.

In 1938 the maximum marginal tax rate for corporations was 19 percent. Following Pearl Harbor the maximum corporate income tax rate rose to 46 percent to pay for World War II. At the onset of the Korean war in 1951, the corporate income tax rate was raised to over 50 percent. Interest costs were still deductible, corporate profits were still subject to double taxation.

Now we have reached the heart of the problem.

Enclosed are two clippings from the New York Times of November 29, 1951. They are on page 4. The article clipping No. 1 tells of a $300 million loan from two insurance companies to a chemical company. The promissory note was 100 years at 3.75 percent interest. Many of us wish we could get 3.75 percent loans now, it looks so cheap in today's market.

However, in November 1951 when the giant loan took place the U.S. Treasury was paying only 2 to 2.5 percent on bonds up to 20 years. This is on clipping 2.

What happened in 1951 was an unseen accidental tragedy. The corporate income tax rate over 50 percent, double taxation of dividends and unlimited tax deduction for interest on borrowed money, big business accidentally doubled the cost of U.S. Government borrowing. There has been an unseen accelerator of inflation and the national debt.

The accelerator of inflation has been stuck to the floor ever since for a third of a century longer than anyone here has been a Member of Congress.

Here is my compromise proposal to solve the problem.

Stop the double taxation of dividends and stop the corporate deduction for interest. I am not suggesting a guns and butter plan. I am suggesting a bread and butter plan. I propose a certain percentage tax-free return to those who invest in productive assets. For investments in shared public utilities I suggest an added tax return to the extent of their own utility bills. I also suggest that corporations be allowed payments to investors for the use of their capital.

Mr. MATSUI. Mr. Kelly, the 5-minute light has just gone on. Do you have much more testimony?

Mr. KELLY. I would say about 2 minutes.

Mr. MATSUI. OK. I have a problem right now. I have a vote on the floor, it is a rule on the budget and I have about 5.5 minutes to get over there. It will take me about that long to get over there.

Perhaps we could call a short recess at this time and then proceed when we get back in a few minutes.

I would call a recess at this time for approximately 10 minutes and we will begin at 25 after the hour.

[Recess.]

Mr. CONABLE. I apologize to the witnesses for not having another Member back here. But we will have another Member here soon, I hope, either that or we will adjourn the hearings which I am sure would be most unfortunate.

[Discussion off the record.]

Mrs. KENNELLY [presiding]. The committee will reconvene.

We will hear from Geraldine Compton and Pat Tice.

Mr. KELLY. Excuse me, I was in the middle of the testimony and they indicated they would come back to me.

Mrs. KENNELLY. Can you do the rest in 30 seconds? I guess you went over your 5 minutes. All your testimony will be in the record and we will have it.

Mr. KELLY. All right.

Very briefly, what I had said in your absence was I first proposed an IRA program in my first appearance before this committee over 10 years ago. I am happy that it exists. I have suggested a plan to lower interest rates which will protect the monetary value of people who have IRA programs. I hope you will take the time to read this. It is a unique proposal based on reversing a couple of the switches in the tax law to take interest rates down so low you could pay off the national debt by 2000 A.D.

I have a very substantial tax background for that statement along with the necessary economic facts and they are all contained in this statement.

Thank you for the extra 30 seconds.

[The prepared statement of Mr. Kelly follows:]

STATEMENT BY JAMES TIMOTHY KELLY, QUEENS COUNTY, N.Y.

Mr. Chairman, ladies and gentlemen of the Committee, and all present, good afternoon.

I have brought you a surprise, maybe two surprises.

In my last appearance before the Committee, I made four requests, and three of them have been granted. I asked that responsible citizens who save for their own retirement not be taxed on their savings. You granted the IRA program.

I asked for a five level Graduated Corporate Income Tax to aid small business. You granted a five level graduated corporate income tax.

I asked that a working couple be granted an additional tax deduction to reflect their extra added costs of having two people work. You granted the working spouse deduction.

I thank you for being so responsive to my suggestions.

Most people would say three out of four ain't bad, and quit. I don't quit while a job is unfinished.

My fourth request a decade ago was that you act to lower interest rates so more young families could own homes. The past decade has shown that neither world leaders, business leaders, Nobel Prize winners, nor our Mac Arthur Prize winners have been able to solve this problem. I returned today to suggest how it can be done. I will show how we can reduce interest rates to the point where we can pay off the National Debt of the United States of America by 2000 AD.

First, I'll explain the arithmetic. Then, I'll explain the politic.

Actor Jack Klugman, in his role of Quincy, pathologist, uses a small slice of skin tissue to study an entire body. I will use a small slice of the national debt to illustrate the arithmetic of the entire national debt.

Here is $100. At this time we pay about 12 percent interest on the entire debt. That is, $1/mo. interest on each $100 of national debt. The principal remains unchanged. Being a curious person, I inquired what would happen at lower interest rates?

This modern book of mortgage tables starts at 9 percent, and I wanted still lower rates. This older book lists rates only as low as 5 percent, so I settled for 5 percent. At 5 percent interest, that same $1/mo./$100 of debt will pay off the full $100 debt in eleven years.

Let me rephrase that. The $1/mo./$100 of debt is now paying only the interest expense, at a 12 percent rate. It doesn't reduce the debt, ever. But at 5 percent interest, that same $1/mo./$100 will pay off the entire debt in eleven years.

Thank you McGraw-Hill.

That is the arithmetic.

Now for the politic. I must walk you down an old path, the history of tax rates. When the income tax amendment was approved in 1913, the Corporate income tax rate was 1 percent, interest costs became a deductible expense, and corporate profits became subject to double taxation. In 1938, the maximum marginal tax rate for Corporations was 19 percent. Following Pearl Harbor, the maximum Corporate income tax rate rose to forty-six percent to pay for World War II. At the onset of the Korean War, in 1951, the Corporate income tax rate was raised to over 50 percent. Interest costs were still deductible, and corporate profits were still subject to double taxation. Now we have reached the heart of the problem.

Enclosed are two items from the New York Times of Nov. 29, 1951. The article, clipping #1, tells of a $300,000,000 loan from two insurance companies to a chemical company. The promissory note was for 100 years, at 3¾ percent interest. Many of us wish we could get 3¾ percent loans now, it looks so cheap in today's market. However, in November 1951, when that giant loan took place, the U.S. Treasury was paying only 2 to 2½ percent on bonds up to twenty years (see Clipping No. 2).

What happened in 1951 was an unseen accidental tragedy. With the Corporate income tax rate over 50 percent, the double taxation of dividends and an unlimited tax deduction for interest on borrowed capital, big business accidentally doubled the cost of U.S. Government borrowing.

This has been the unseen accelerator of inflation, and the national debt. The accelerator of inflation has been stuck to the floor ever since, for one-third of a century, longer than any of you have been members of Congress.

Here is my compromise proposal to solve the problem.

Stop the double taxation of dividends, and stop the corporate deduction for interest on borrowed money.

I am not suggesting a guns and butter plan. I am suggesting a plain bread and butter plan. I propose a certain percentage tax free return to all who invest in private productive assets. For investments in shared public utilities I suggest an added tax free return to the extent of their own utility bills. I also suggest that the corporations, public or private, be allowed a tax deduction for certain payments to investors, for the use of capital. Last, the Graduate Corporate Income Tax could be expanded from five levels to twenty levels to counter the trend toward excess concentration of economic power.

This proposal may sound at first to be an impossible dream. To illustrate how possible it is, and how simple it is, I ask you to compare an ordinary hamburger to our present tax system (see page 5).

Each layer represents a part of the tax code; gross profit, expenses including interest, net profit, taxes, and profits after taxes. I propose that it be flipped over, with profits paid to investors as a business tax deduction.

This simple plan will end the competition that has bid up interest rates, thereby allowing all interest rates to come down to 1951 levels.

Look at one benefit. This large box represents a 30 year mortgage at 14 percent interest, which is currently available in some cities without paying points. It takes a $1,000/mo. payment to finance an $85,000 mortgage, which is what a reasonable middle class home requires.

This smaller box represents the same 30 year mortgage at 5 percent interest, with a payment of only $456.30/mo. This lower cost mortgage would set off a real economic boom in America.

When will it happen?

I recognize that my proposal is unique. It will take several years of discussion to inform interested parties. If it could become law by 1988, we could pay off the national debt by 2,000 A.D.

I am guilty of talking a great deal about money while saying almost nothing about IRAs and economic equity, the topics for today. The IRAs will be only a false promise if we fail to have trustworthy money, and lower interest rates are needed to prevent worldwide economic disaster that could wipe out the value of all IRAs and all money.

The value of IRAs and the value of all money can be destroyed by inflation or taxes. I have shown how a 5 percent interest rate can help pay off the National Debt by 2,000 A.D. and how a change in tax laws can bring about much lower interest rates for all.

In conclusion, the real purpose of IRAs is a strong middle class, a stronger America, a more secure people. If I have placed one brick into the roadway towards a better future for us all, this day's action will be worth the efforts.

Thank you for the opportunity to make these comments today.

#1

The New York Times THURSDAY, NOVEMBER 29, 1951.

FACTORY EXPANSION TAKING $550,000,000

Two Concerns Will Borrow From Institutional Investors for Long-Term Programs

INTEREST AT 3½%, 3¾%

Union Carbide to Give Notes for $300,000,000—Westinghouse to Issue Debentures

Two leading industrial organizations announced plans yesterday to borrow a total of $550,000,000 for expansion. The transactions represent the largest financing programs undertaken by industrial companies in some time.

The Union Carbide and Carbon Corporation has arranged to obtain $300,000,000. Fred H. Haggerson, its chairman, explained yesterday that, in view of expansion planned for the next several years, the arrangement was considered desirable by directors despite a satisfactory current cash position.

Borrowing $250,000,000 by the Westinghouse Electric Corporation from a group of institutional investors has been arranged, with an option for an additional $50,000,000, Gwilym A. Price, the president, announced after a board meeting here. The loan will finance the company's $296,000,000 expansion and provide working capital for increased business. The institutional investors include insurance companies, pension funds, savings banks and universities.

Insurance Lenders

The Prudential Insurance Company of America and the Metropolitan Life Insurance Company are each to advance to Union Carbide $150,000,000 on 100-year promissory notes, bearing interest at the rate of 3½ per cent a year and maturing on Nov. 1, 2051. Notes will be issued in varying amounts as the money is needed on or before Nov. 1, 1954. There are no sinking fund provisions but optional prepayments may be made without premium or from operating funds from the proceeds of stock sales.

At any time after Nov. 1, 1958, on thirty days' notice, the notes may be converted at the option of the insurance companies or Union Carbide, into twenty-five-year 3½ per cent notes having a fixed sinking fund commencing five years after the date of conversion and retiring the notes by maturity without premium. Such conversion would not remove the optional prepayment privileges, Mr. Haggerson declared.

Union Carbide's activities are concerned with five major groups of products: alloys and metals; chemicals, electrodes, carbons and batteries; industrial gases, carbide, and plastics. Additional production facilities costing $880,000,000 have been added since the beginning of 1946.

Many of the newer products have shown rapid growth, Mr. Haggerson explained, making necessary further expansion of facilities, particularly for chemicals, plastics and synthetic fibers. The company expects that additional plants will be required for numerous new products as they are introduced commercially.

#2

U. S. GOVERNMENT AND AGENCY BONDS

BONDS

Treasury			Bid	Asked	Net Change in Bid
*2¼s	1951	Dec.	100.3	100.4	..
*2¼s	1952	Mar.	100.9	100.11	..
*2s	1954-52	June	100.2	100.4	..
*2¼s	1955-52	June	100.9	100.11	..
*2s	1953-52	Dec.	100.0	100.2	+ .1
*2s	1953-52	Sept.	100.6	100.7	+ .1
*2s	1954-52	Dec.	100.1	100.3	..
2s	1955-53	June	101.26	101.30	..
2¼s	1956-54	June	102.2	102.6	..
2⅞s	1960-55	Mar.	108.16	108.20	..
*2½s	1958-56	Mar.	101.20	101.24	+ .2
*2⅜s	1959-56	Sept.	100.8	100.12	+ .2
2¾s	1959-56	Sept.	108.26	108.30	..
2¾s	1963-58	June	108.22	108.26	+ .2
*2½s	1962-59	June	97.7	97.11	+ .1
*2½s	1962-59	Dec.	97.3	97.7	+ .1
2¾s	1965-60	Dec.	110.18	110.22	..
*2½s	1967-62	June	96.7	96.11	+ .1
*2½s	1968-63	Dec.	97.8	97.12	+ .3
*2½s	1969-64	June	97.3	97.7	+ .1
*2½s	1969-64	Dec.	97.0	97.4	..
*2½s	1970-65	Mar.	96.30	97.2	..
*2½s	1971-66	Mar.	96.28	97.0	+ .2
*2½s	1972-67	June	96.28	97.0	..
*2½s	1972-67	Sept.	98.0	98.4	− .2
*2½s	1972-67	Dec.	96.28	97.0	..

*Subject to Federal taxes. Quotations after decimal point represent 32ds of a point.

*INTERNATIONAL BANK BONDS

Issue	Bid	Asked
3s July 15, 1972	96.28	97.0
3s Mar. 1, 1976	96.4	96.20
[illegible] Oct. 1 1981	97.8	97.24

The quotation for the [illegible] serial issues is the average for all maturities:

2s 1953 to 1962	2.65	2.50

*Not an obligation of U. S. Government.

TREASURY NOTES

Outstanding Millions		Rate	Bid	Ask	Yield
4,675	Mar., '54	1⅜%	98.24	98.26	1.91
5,365	Mar., '55	1½%	98.13	98.15	1.98
6,853	Dec., '55	1¾%	99.6	99.8	1.94
1,006	April, '56	1½%	96.0	96.8	1.82
503	Oct., '56	1½%	97.24	98.0	1.83

Certificates of Indebtedness

9,524	April,	'52 1⅞%	1.62	1.56	1.56
5,215	July,	'52 1⅞%	1.65	1.57	1.57
583	Aug. 15,	'52 1⅞%	1.68	1.62	1.62
1,832	Sept.,	'52 1⅞%	1.70	1.64	1.64
10,862	Oct.,	'52 1⅞%	1.71	1.66	1.66

TREASURY BILLS

1,103	Dec.	6	1.40%	1.00%
1,302	Dec.	13	1.30%	1.00%
1,303	Dec.	20	1.40%	1.05%
1,200	Dec.	27	1.45%	1.15%
1,301	Jan.	3	1.50%	1.20%
1,200	Jan.	10	1.55%	1.35%
1,200	Jan.	17	1.58%	1.42%
1,300	Jan.	24	1.60%	1.45%
1,301	Jan.	31	1.60%	1.45%
1,300	Feb.	7	1.60%	1.50%
1,302	Feb.	14	1.60%	1.50%
1,100	Feb.	21	1.60%	1.52%
1,100	Feb.	28	1.62%	1.56%
1,250	Mar.	15	1.60%	1.54%
1,250	June	15	1.62%	1.57%

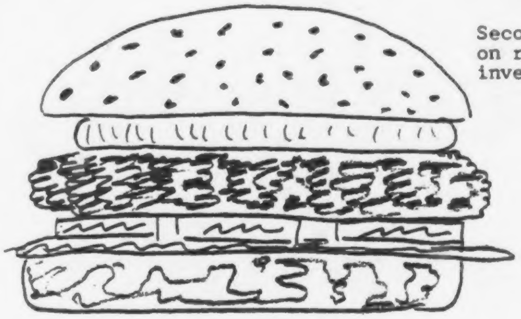
FEDERAL LAND BANK BONDS

Outstanding Millions			Rate	Bid	Ask	Yield
[illegible]	May	1952	1¾	[illegible]	[illegible]	1.70
[illegible]	Jan.	[illegible]	1½	[illegible]	[illegible]	[illegible]
114	Feb.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	Nov.	[illegible]	[illegible]	[illegible]	100.2	[illegible]
[illegible]	Oct.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

INSULAR BONDS

	Rate	Date	Bid	Ask
[illegible]	[illegible]	July, [illegible]	[illegible]	..
[illegible]	[illegible]	July, [illegible]	[illegible]	..
[illegible]	[illegible]	Oct., [illegible]	[illegible]	..
[illegible]	[illegible]	Feb., [illegible]	[illegible]	..
Puerto Rico	[illegible]	Aug., '53-'55	[illegible]	..

The present tax system allows interest expense as a deduction, but taxes profits twice, once to the corporation, again to the investor.



(Read up)

Corp. profit after taxes

Income taxes

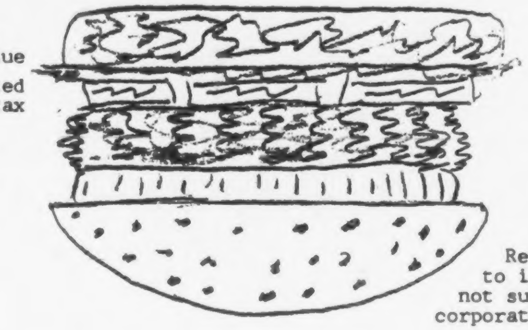
Net profit before taxes

Deductions, incl. interest

Gross profit

Second tax on return to investors

Our proposed system would flip the system over. Corporations would be permitted a tax deductible payout to investors for the use of their money, but give up the deduction for interest on borrowed funds.



(Read up)

Retained earnings added to corp. value

A 20 level graduated corporate income tax

Net profit before income taxes

Deductible return to investors

Gross profit

Return
to investors
not subject to
corporate icome tax.

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Room 1220, The Lincoln Building
60 E 42nd St., New York, NY 10165

Mrs. **Kennelly**. Thank you, Mr. Kelly, and I will read your entire testimony.

Geraldine Compton and Pat Tice.

STATEMENT OF GERALDINE COMPTON, PHELPS, KY.

Ms. **Compton**. Thank you.

I am Geraldine Compton and I come all the way from Phelps, Ky., to tell my story. I hope that somehow what I have to say will help make needed changes in the law so women who have worked hard all their lives, in the home, will be able to get a share of their husband's pension that I feel they earned, too.

I was married to Thomas Compton for 36 years. He was a good family man and a hard worker. He spent 27 of our married years with the Kentland Elkhorn Co. in Biggs, Ky., where he worked in the coal mines. In all the years I knew him he never missed a day of work unless he was very sick. The kids only got to see him on weekends because he worked until 11:30 every night. I even remember times when he would work double shifts to fill in for someone who didn't show up. I never knew whether he was working inside or outside the mines and I knew it was dangerous. I cannot tell you how many nights I lay in bed wondering whether my husband was going to make it back home to me.

In 1978, he had a severe heart attack and was permanently disabled. He still tried to be active as much as possible but he was in and out of the hospital. Knowing his condition, he was concerned about what would happen to me if he died first. We talked often about it and he told me that his pension would be there to help me through retirement. I had no reason to question.

Unfortunately he died a heart attack in May 1980. About a month later I got a letter from the pension fund telling me that I wouldn't get a dime of his pension. They told me that he died too early—4 hours before his 55th birthday. I couldn't believe this could happen. I thought to myself, 4 hours, that's ridiculous.

What this boils down to, is that he died at 7:45 p.m., if he could have waited until midnight, I would now have my pension. Nobody in our small town could believe this either. But sure enough, the pension plan denied me my widow's benefits. They said it was the law that plans did not have to give widows benefits to the widow of a worker who died before early retirement age.

One of the trustees thought this was very unfair and wanted to give me the pension anyway. But the other two trustees stuck by the law and refused me any of the pension.

Nothing has ever seemed so unfair to me in my whole life. I stood by my husband's side for 36 years. I raised our two kids. I did everything I thought I was supposed to do and then because my husband died at the wrong time—4 hours early—I was left without his pension. I really don't understand this logic at all. Why should I be penalized now because he happened to die a few hours before early retirement age? I find it real hard to swallow that the law, instead of furthering justice, now deprives women of their right to a decent retirement.

Call it foresight, I was wise enough to open a small flower shop some years ago just to give me extra income. As long as my health is with me, I will have some money to keep me going—for now. But I am not fooling myself that I will be able to work forever and I know it will get rougher as I get older. I just cannot get it out of my head that because of 4 hours, I will now have to live with reduced income for life.

I ask you today to please support the legislation that will provide pension security to thousands of women throughout the country. The Economic Equity Act will make sure that other women in my position will not lose out just because their husband died a few hours, days, months, or years too early.

Thank you for letting me speak today. If what I have said can help other women then I know my long trip from Phelps, Ky., was worthwhile.

[The prepared statement follows:]

STATEMENT OF GERALDINE COMPTON, PHELPS, KY.

Mr. Chairman, I welcome this opportunity to testify today. My name is Geraldine Compton and I come all the way from Phelps Kentucky to tell my story. I hope that somehow what I have to say will help make needed changes in the law so women who've worked hard all their lives, in the home, will be able to get a share of their husband's pension that I feel they earned too.

I was married to Thomas Compton for 36 years. He was a good family man and a hard worker. He spent 27 of our married years with the Kentland Elkhorn Company in Biggs Kentucky where he was a repairman in the coal mines. In all the years I knew him he never missed a day of work unless he was very ill. The kids only got to see him on weekends because he worked until 11:30 every night. I even remember times when he would work double shifts to fill in for someone who didn't show up. I never knew whether he was working inside or outside the mines. I can't tell you how many nights I lay in bed wondering whether my husband was going to make it back home or if I'd get a late night phone call telling me something had happened, that he'd been injured or crushed in a mining accident.

In 1978, he had a severe heart attack and was permanently disabled. He still tried to be active as much as possible but he was in and out of the hospital. Knowing his condition, he was concerned about what would happen to me if he died first. We talked often about it and he assured me that his pension would be there to help me through retirement. I had no reason to question.

Unfortunately he died of a heart attack in May of 1980. About a month later I got a letter from the pension funding telling me that I wouldn't get a dime of his pension. They told me that he died "too early"—four hours before his 55th birthday. I couldn't believe this could happen. I thought to myself, "four hours, that's ridiculous!" Nobody in our small community could believe it either. But sure enough the pension plan denied me my share of the widow's benefits. They said it was the law that plans did not have to provide widows benefits to the spouse of a worker who died before early retirement age. One of the trustees saw how unfair this was and wanted to give me the pension anyway. But the other two trustees stuck by the law and refused me any of the pension. All I received were disability benefits from the company which I would've gotten anyway.

Nothing has ever seemed so unfair to me in my whole life. I stood by my husband's side for 36 years. I raised our two kids. I did everything I thought I was supposed to do and then because my husband died at the "wrong time" I was left without his pension. I really don't understand this logic at all. Why should I be penalized now because he happened to die a few hours before early retirement age? I find it real hard to swallow that as the law stands, plans are allowed to continue this arbitrary pay-out of survivors benefits leaving many women—after long years of marriage when the pension was earned—without adequate income for retirement.

Call it foresight, I was wise enough to open a small flower shop some years ago just to give me extra income. As long as my health is with me, I will have some money to keep me going—for now. But I'm not fooling myself that I'll be able to work forever and I know it'll get rougher to get by as I get older. I just can't get it out of my head that because of 4 hours, I'll now have to live with reduced income for life.

I should add that I was so upset by the pension fund's decision to deny me my share of the pension, I decided to fight them with a law suit. Only the Good Lord knows how the judge will rule on my case. All I know is even if I do win, on a technicality, there will still be tens of thousands of other women who have and will lose out because of the way the law now stands. I ask you today to please support the legislation that will provide pension security to thousands of women throughout the country. The Economic Equity Act will make sure that other women in my position will not lose out just because their husband died a few hours, days, months or years too early. Thank you for letting me speak today. If what I've said today can help other women then I know my long trip from Phelps Kentucky was worthwhile.

Mrs. **Kennelly**. Thank you very much for your unfortunately, very unfortunate, testimony. It is very helpful.

I think something like that can help us more than all the technical testimony in the world. I thank you for taking that very long trip.

Pat Tice.

STATEMENT OF PATRICIA TICE, POTOMAC, MD.

Ms. **Tice**. Thank you for allowing me to give this brief statement today.

I am Patricia Tice, and I am from Potomac, Md. I originally agreed to testify because I thought I could benefit from the pending legislation. But unfortunately the legislative process has moved too slowly for me.

Briefly my story is this. My husband Arthur worked for the IBM Corp. for 24 years. During this time I moved with him frequently to further his career. These were sacrifices I was willing to make because he was a talented employee and IBM always made me feel like part of the corporate family. Then, 3 years ago my husband was stricken with cancer. At that time I started to look into my benefits, including my retirement future.

When I checked with IBM I found out shocking news. I wouldn't end up with a dime of my husband's pension unless he lived to age 55.

My husband died early this morning. He was 50.

I have marveled at Art's perserverence in the past. He fought very hard for the past 3 years to stay alive long enough for me to be covered by his pension. He was worried about me. He had always assumed I would be covered by the IBM pension plan when he died and was devastated to find out that I would lose the pension we both had earned.

Art was a model employee. In fact, IBM had given him a substantial raise 2 weeks before he got sick. He was a modest and unassuming person, someone who quietly and inexorably got any job he was assigned done with perfection. I was always quite proud of him and supported him through everything, even 24 days while he labored on the NASA space program.

He won the highest award in 1967 for the manned flight awareness program for his superb work with the Apollo Saturn space program. His name is among those that have been immortalized on microfilm in a capsule on the surface of the Moon. I am not sure too many people can brag about that.

For the past 2 months I have lived from day to day. My son and I have eaten and slept at the hospital in-between going to work at a new demanding job at AT&T. This is my first career and I know it is necessary for me to put in lots of hours to build the reputation I need for my own immediate and future survival. I don't know whether I will be able to work long enough to get a pension of my own.

But even if I did it would be no more than a fraction of what I should be getting in return for the loyal and devoted service both Art and I gave to IBM.

I guess one of the most important things I can offer now is to urge every man or woman to check into his or her pension benefits to find out the requirements for spousal benefits. I know Art and I only skimmed the pension book. Because I was covered by all other company benefits both Art and I assumed we were covered by his pension plan as well.

You know, when you are young you don't tend to think about the technicalities of your pension plan.

But every worker and homemaker alike needs to check the pension requirements early on.

Of course in my situation, even though both Art and I intended to make the right choices for retirement, we couldn't, because the law and the IBM pension plan—which could have done better by the way—stands in our way. All I know is that I really feel brokenhearted and betrayed on every front. Not only have I lost my husband today, a loving man who can never be replaced, but I also feel like I have been abandoned by IBM.

I have received letters from IBM management commending me for supporting my husband over the years to enable him to make the contributions he has given to the corporation. But now I feel like they don't care what happens to me in my old age. I guess I also know deep inside that it is not IBM's fault because it is the law that allows this to happen, but it makes no sense to me.

I cannot understand how any of us can allow a system so arbitrary and unjust to exist for so long. I cannot fathom how anybody can support a law that so blatantly works against the best interests of women who work and sacrifice in the home so their husbands can earn the pension in the first place.

I ask today that you change the law so that anyone who has earned a right to a pension has the chance to provide for his wife no matter when he dies.

This is only fair, and it seems to me, the only way it can be.

Thank you.

[The prepared statement follows:]

Statement of Patricia Tice, Potomac, Md.

Mr. Chairman, thank you for allowing me to give this brief statement today. My name is Patricia Tice and I am from Potomac, Maryland. I come before you today because I am one of the women who could benefit from the pending legislation.

Briefly my story is this. My husband Art worked at IBM for 24 years. During this time I moved with him frequently to further his career. These were sacrifices I was willing to make because he was a talented engineer and IMB always made me feel like part of the corporate family. Then, three years ago my husband was stircken with brain cancer. At the time I didn't have a job and I started to get worried about my retirement future. When I checked with IBM, I found out shocking news—I wouldn't end up with a dime of my husband's pension unless he lived to 55.

My husband is 50 now. The doctors have told me it is unlikely that he will live more than another week or two. I have marveled at Art's perseverance in the past and I see how hard he's fighting now to stay alive. He's worried about me. He really thought I would be covered by the IBM pension plan when he died and was devastated to find out that I would lose the pension we both earned.

Art was a model employee. IBM gave him a substantial raise the week before he got sick. He was modest and unassertive; someone who quietly and inexorably got any job he was assigned done with perfection. I was always so proud of him and supported him through everything, even twenty hour days while he labored on the NASA space program. He won the highest award for the "Man-Flight Awareness Program" for his superb work with Apollo XV. His name is among those that have been immortalized on microfilm in a capsule on the moon. I'm sure not too many people can brag about that!

But, now, I can't think about much at all. I live from day to day. I eat and sleep at the hospital in between going to work at a new demanding job at AT&T. This is my first "career" and I know it's necessary for me to put in lots of hours to build the reputation I need for my immediate and future survival. I don't know whether I'll ever be able to work long enough to get a pension of my own. But even if I did, it would be no more than a fraction of what I should be getting in return for the loyal and devoted sevice both Art and I gave to IBM.

I guess, one of the most important things I can offer now is to urge every man to check into his pension benefits early on and find out the requirements for widows benefits. I know Art and I only skimmed the pension booklet, it was so difficult to read. But everybody, worker and homemaker alike, needs to check the pension requirements early on. Of course in my situation, even though both Art and I intended to make the right choices for retirement, we couldn't because the law and the IBM pension plan—which could have done better, by the way—stands in our way.

All I know is that I really feel broken-hearted and betrayed on every front. Not only am I losing my husband, a loving man who could never be replaced, but I also feel like I've been abandoned by IBM. I feel like they don't care what happens to me in old age. I guess I also know, deep inside, that it's not IBM's fault, because it's the law that allows this to happen. But it makes absolutely no sense to me. I can't understand how any of us can allow a system that is so arbitrary and unjust to exist for so long. I can't fathom how anybody can support a law that so blantantly works against the best interests of women—who work and sacrifice in the home so their husbands can earn the pension in the first place. I ask today that you change the law so that anybody who has earned a right to a pension has the chance to provide for his wife no matter when he dies. This is only fair, and it seems to me, the only way it can be. Thank you.

Mrs. KENNELLY. Thank you, Mrs. Tice, and may we offer our sympathy from myself and the committee.

I think the testimony of this panel has been exceptionally moving and important and I thank each and every one of you for coming today and having this in our testimony so we can refer to it as we work hard to amend these laws.

Mr. Conable.

Mr. CONABLE. I want to say I am very proud of the courage of the witnesses I have heard. As the chairman says, it is rarely that we get this kind of testimony and yet it is so direct under these circumstances, it is indeed a tribute to you as citizens.

I thank you.

Mrs. KENNELLY. The next panel will be made up of the Honorable Evelyn F. Murphy, secretary of the executive office of economic affairs in the Commonwealth of Massachusetts; Helen Blank, director of child care and family support, children's defense fund; Nancy Duff Campbell and Sally Goldfarb of the National Women's Law Center; and Carole Rogin, executive director of the National Association for Child Care Management.

We will begin with the Honorable Evelyn Murphy.

STATEMENT OF EVELYN F. MURPHY, SECRETARY OF ECONOMIC AFFAIRS, COMMONWEALTH OF MASSACHUSETTS

Ms. MURPHY. Thank you.

I am Evelyn Murphy, Secretary of Economic Affairs for the State of Massachusetts. I come as the Governor's Cabinet member, a trained economist, a woman who manages the Employment Security and Job Management Act and, therefore, in charge of most of the training and employment programs in the State.

This is a woman's issue and I may be the only woman holding this position throughout the country. I want to thank you for this opportunity to testify before you. Let me first say that I strongly support the Economic Equity Act. I have come to talk about title II—the dependent care program—because I firmly believe this program will help to assure economic equity for women.

There is a growing awareness of the critical role of child and dependent care services as a crucial factor in moving from economic dependency to employment. This awareness has developed as the composition of America's work force has changed—dramatically and rapidly in the last decade. The demand for child care is now inextricably linked with the harsh economic realities of family life.

Child care services are now widely perceived as a support system, a bridge to economic productivity. The argument for this Federal legislation is compelling.

The poor are increasingly women who are often single parents of young children. Congressional findings for title II document the staggering facts: "4.3 million children aged 13 years and under live in one-parent homes where the parent works"—child care is and will continue to be a necessity for the Nation's economy and for its families.

The need for child and dependent care assistance is most acutely experienced by the disproportionate number of America's poor women. For millions of black and Hispanic women and their children, poverty is very much a part of American life. In 1981, the poverty rate for persons in female-headed households with children was 68 percent for blacks and 67 percent for Hispanics.

Without reliable child care at a reasonable cost these mothers cannot get the training and skills that might help them to improve their economic status. They cannot hope to obtain stable employment without child care services on which they can depend. Where there are Federal or State programs that provide child care services for employment training programs, these programs cannot succeed without sustained, affordable child care services.

According to a recent report of the U.S. Civil Rights Commission, many fully employed women heading households remain poor in spite of their work efforts. In 1980 fully employed women heading their own families had a poverty rate double that of similarly situated men and almost three times the rate of two-parent families.

And the numbers of working women with children to support continue to surge. In 1982, 56 percent of all mothers with preschool children were working. By 1990, 65 percent of all families will have mothers employed outside the home.

Let's focus on what these women are earning when they are employed. In 1980, full-time work at the minimum wage provided an income of $6,448—just under the poverty level for a family of three. The 1980 earnings distribution for full-time workers documents significant disparities even at the low end of the scale. Over 2.8 million women—13 percent—who were fully employed had earnings of $7,000 or less compared with 4.4 percent of fully employed men.

Full-time employment will not necessarily solve the poverty problem for many women. The fact is that a job is often not enough to help women and their children leave poverty. Child care and dependent assistance must be central to Federal equal opportunity policy.

Anticipated increases in the need for child care during the coming decade have important implications for the magnitude of the affordability problem.

I see the red light is on so I will ask this be read into the record. I hope you do consider those some efforts made by companies. We have companies in Massachusetts, the details of which can be filled in, Stride-Rite, and Wang, who provide on-site child care services not only for their employees but for the community around them. To the extent we can afford that cooperation that generally serves a community as well as employee need, I would ask you to think about how we might further those kinds of efforts with some incentives.

I think this legislation is on the mark and is sorely needed and to allow women to have the basic support similar for raising families and the rest. It is a basic economic issue fundamentally.

[The prepared statement follows:]

STATEMENT OF EVELYN F. MURPHY, SECRETARY OF ECONOMIC AFFAIRS, COMMONWEALTH OF MASSACHUSETTS

Good Afternoon, I am Evelyn Murphy, Secretary of Economic Affairs for Massachusetts. I want to thank you for the opportunity to testify before you this afternoon.

Let me first say that I strongly support the Economic Equity Act. I have come to talk about title II—the dependent care program—because I firmly believe this program will help to assure economic equity for women.

There is a growing awareness of the critical role of child and dependent care services as a crucial factor in moving from economic dependency to employment. This awareness has developed as the composition of America's workforce has changed—dramatically and rapidly in the last decade. The demand for child care is now inextricably linked with the harsh economic realities of family life.

Child care services are now widely perceived as a support system, a bridge to economic productivity. The argument for this Federal legislation is compelling.

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The need for child and dependent care assistance is most acutely experienced by the disproportionate number of America's poor women. For millions of black and Hispanic women and their children, poverty is very much a part of American life. In 1981, the poverty rate for persons in female headed households with children was 68 percent for blacks and 67 for Hispanics.[1]

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According to a recent report of the U.S. Civil Rights Commission, many fully employed women heading households remain poor in spite of their work efforts. In 1980 fully employed women heading their own families had a poverty rate double that of similarly situated men and almost 3 times the rate of two parent families.[2]

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[1] "A Growing Crisis: Disadvantaged Women and Their Children," U.S. Commission on Civil Rights, Clearinghouse Publications 78, May 1983, p. 62.

[2] Op. cit. p. 63.

And the numbers of working women with children to support continue to surge. In 1982, 56 percent of all mothers with preschool children were working. By 1990, 65 percent of all families will have mothers employed outside the home.[3]

Let's focus on what these women are earning when they are employed. In 1980, full time work at the minimum wage provided an income of $6448—just under the poverty level for a family of 3 for that year—the 1980 earnings distribution for full time workers documents significant disparities even at the low end of the scale. Over 2.8 million women—13 percent—who were fully employed had earnings of $7,000 or less compared with 4.4 percent of fully employed men.[4]

Full time employment will not necessarily solve the poverty problem for many women. The fact is that a job is often not enough to help women and their children leave poverty. Child care and dependent assistance must be central to Federal equal opportunity policy.

Anticipated increases in the need for child care during the coming decade have important implications for the magnitude of the affordability problem. One report suggests that, based on projections of population and labor force participation rates, the need for preschool child care could rise by as much as 70 percent in the eighties.[5]

Currently, at least one-quarter of the working families in the Nation have incomes indicating they cannot afford more than a nominal payment for child care. And 25 percent have incomes below the Bureau of Labor Statistics lower family budget threshold. This threshold was chosen because it is a threshold below which families cannot afford substantial child care since it represents a standard requiring frugal and careful management and assumes no child care expenditures.[6]

Yet high cost of child care can be justified—for example, in Massachusetts, we have a long standing, strong commitment to quality care. State licensing requirements are among the strictest in the country. Fees for services are high because we insist on adequate facilities, nourishing food and professionally trained staff.

Since State and Federal funds no longer help subsidize these costs, many employers are helping to make affordable quality care available to their employees. Massachusetts may be the State to look to for innovative programs sponsored by employers. We may have more employer sponsored programs than other States. I want to mention briefly two programs initiated by major Massachusetts businesses. These are the kinds of efforts that this bill, perhaps with some modifications, can build some needed public-private partnerships in the child care.

Stride-Rite, a nationally known pioneer among worksite child care programs, manages two children's centers. One center on Harrison Avenue in Boston's south end opened in 1971. It now serves 50 preschool children, roughly half of whom are children of employees, and half from other families in the contiguous community.

Employees of Stride-Rite who enroll their children pay fees calculated at 10 percent of their Stride-Rite gross weekly wage, and pay no more than $25/week, due to support from the Stride-Rite charitable foundation. Full-time tuition for nonemployees is $68 per week.

Wang Laboratories opened a preschool and kindergarten center in Tewksbury for 70 children in January 1980; it originated in a survey of their 6,000 employees, in which child care was frequently pointed to as a problem. Wang is a very competitive high-technology company which can use the center as an employee-recruitment advantage. The Tewksbury center filled rapidly, and was in such demand that in 1981 the center moved to a much larger facility in Chelmsford—a former public school. The new site now includes infant and toddler care, beginning at 6 months, currently the total enrollment is 130 and expanded to 200 in September. Originally Wang considered opening centers at several of their worksites, but the Chelmsford center is centrally located for seven Wang plants, and bus transportation for the children is available.

Admission to the Wang center is open to employees and to others in the community, but as a charitable contribution Wang subsidizes tuition for employees. Infant/toddler tuition is $45/week and $90 for others, preschool is $33/week for employees and $66 for others.

Stride-Rite and Wang represent a type of employer-sponsored child care that serves the residents in the nearby community as well as employees.

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[3] Source: Child Care Resource Center, Inc., Cambridge, Mass.

[4] "A Growing Crisis: Disadvantaged Women and Their Children," p. 16.

[5] Winget, W. Gary "The Dilemma of Affordable Child Care" in Day Care: Scientific and Social Policy Issues, edited by Edward F. Zigler and Edmund W. Gordon, Auburn House Publishing Co., Boston, Mass., 1982. pp. 351-377, 353.

[6] Op. cit. Winget, p. 357.

Perhaps the committee should consider some tax incentives that further such initiatives by industry, but only in situations that provide child care for the community, too. That serves a genuine public good, especially when plants are located in low income, center city neighborhoods, as is Stride-Rite.

Based on fairminded principles of equity, the sliding scale tax credit will help to bring about effective demand and stimulate the supply of services. The refundable child care tax credit provisions of section 203(a) will help to increase employee participation, especially in helping lower income employees.

By adjusting the cost of child care to the parents' ability to pay, sliding scale tax credits can make a major inroad on the problem of affordability. The tax credit is a responsible legislative response to severe financial problems facing people in need of child and dependent care.

While demand for child care services grows, policy makers have little information on the magnitude of this demand. No one seems to know how many 4-to-15-year-olds are latch key children for whom supervision and care are unavailable.

The final provision, section 204(a)(1) for child care information and referral services responds to these issues and represents the mediating part of these provisions. By creating a well planned system to coordinate information on supply and demand, this bill will encourage development of local solutions to child care needs—the challenge is to improve the economic lives of women and their families. Title II of the Economic Equity Act is a hopeful legislative step toward that goal.

Mrs. KENNELLY. Thank you.

Helen Blank.

STATEMENT OF HELEN BLANK, DIRECTOR, CHILD CARE AND FAMILY SUPPORT, CHILDREN'S DEFENSE FUND

Ms. BLANK. We not only support the changes in the credit, but also the changes that facilitate nonprofit status for child care centers serving working parents. We feel that the dependent care changes are so important to families at all stages of the life cycle that we joined forces with 47 other national organizations, including the AARP and the Association of Junior Leagues in a multigenerational coalition on dependent care.

We share common concerns, the lack of adequate support available to struggling working families to help them meet their dependent care responsibilities. Women are caught in a bind in their whole lives; in the early years they have children, once the children are grown they are faced with caring for older parents.

They always have two taxing jobs. Obviously, we are particularly concerned about the ability of credit to help families meet their child care needs. We believe that as many as 6 to 7 million children ages 13 and under may go without adequate child care for significant parts of the day because the child care supply is so short.

The infant care need is enormous. We have millions of children coming home after school to empty houses or hanging out on playgrounds.

Lack of affordable child care is obviously a major factor keeping women in poverty. The Commission on Civil Rights notes that the inability to locate affordable child care restricts not only women's employment and training opportunities but also their ability to participate in federally supported education programs. One out of five or six women is unemployed because she cannot make suitable child care arrangements.

Our patchwork child care system has fallen apart since 1981. Title XX was cut 21 percent. We lost 30 percent in the child care food program. At CDF, we were particularly concerned about title XX since it is the largest source of direct support for child care, and we conducted a study to examine what happened to child care as a result of the title XX cutbacks. We found that 32 States are providing title XX care to fewer children in 1983 than in 1981. Sixteen States have cut expenditures more than 21 percent. Thirty-one States have accomplished reductions in the number of children served by making it harder for families to become eligible for child care support. Nineteen have increased fees for services.

What we are seeing is a gentrification of child care. One example is in Grand Rapids. A day care center used to serve 55 children, all of whom were low income. It now serves 31, none of whom are low income. Another center in Delaware was going to close because its children receiving title XX had dropped out. It used to serve two-thirds title XX children; it now serves one-third.

The number of children who have lost child care services are disquieting—between 8,400 and 12,000 in New York State. Illinois has lost 10,000 children. Delaware has made a 50-percent cut from 2,000 to 995 children. The numbers go on.

In New York State, nine counties in the past 2 years have stopped serving low-income working families and only serve families on welfare with title XX. These families would be helped by the dependent care changes. The results are very painful. I think what distresses us the most and why we are so supportive of this change is because we feel we have to take every window of opportunity that we can. There are too many children not only being moved to less supportive arrangements and losing their familiar caregivers but are caring for themselves.

In West Virginia, 739 families lost child care. The State did a study to find out the results. Five hundred and sixty-five families responded. Three hundred and ninety-one children had been forced to leave their caregivers. Seventy-nine were caring for themselves. Caring for themselves is checked off on too many questionnaires. Too many older children are staying home from school to care for younger siblings.

We are most appreciative that this committee restored some funding for title XX. Of course, it is our job to ask for more. We are $600 million short of where we would have been if title XX had not been cut back in 1980.

We remind you that elderly families also are desperate for dependent care. One in 10 middle-aged women between 45 and 65 has responsibility for an older relative. Almost 1 million women age 44 to 58 claim health of family members limits their work. Middle-aged women cannot reenter the labor force if they are displaced homemakers.

The timing is ripe for changes. Refundability is important both for families who have no tax liability and for those with limited tax liability. A two-parent household with two children, earning almost $15,000 a year, with 2,300 dollars' worth of child care expenses, would receive a credit of $460 if you made the changes in the EEA. But they would lose $168 if the credit was not refundable.

The timing is ripe for changes because the credit for the first time in 1983 is going to be on the short form. If we can get the benefit increased, the credit will be accessible to low income families.

We urge Congress to take this opportunity.

[The prepared statement follows:]

STATEMENT OF THE CHILDREN'S DEFENSE FUND PRESENTED BY HELEN BLANK, DIRECTOR, CHILD CARE AND FAMILY SUPPORT

SUMMARY

Working families with young children or elderly or disabled relatives share an important need—the need for support in caring for their dependents. Women bear a disproportionate share of this responsibility. During their early lives they must balance a job outside the home with the responsibilities in raising a family. After their children become independent, they are often still faced with two taxing jobs as they take on the burden of caring for their aging parents or husbands.

The improvements included in Title II of the Economic Equity Act—expanding the current sliding scale to 50 percent for families earning under $10,000 and making the credit refundable are equally important. The expanded slide would offer increased assistance to families. Refundability would allow them to take full advantage of the new benefit.

The Children's Defense Fund has joined with 47 other national organizations including the American Association of Retired Persons, and the National Association of Retarded Citizens in a Multigenerational Coalition on Dependent Care. We represent constituencies at all stages of the life cycle.

CDF is particularly concerned about the ability of the credit to help families meet their child care needs. Almost 46 percent of mothers with children under three are in the labor force as are almost 57 percent of mothers with children ages three to five. Yet, the supply of affordable child care lags so far behind the need that as many as 6 to 7 million children 13 years old and under, may go without care for significant parts of each day while parents work.

At the other end of the spectrum, one in ten middle-aged women between 45 and 65 has responsibility for an older relative. Almost one million women aged 44 to 58 claim that the health of a family member limits their work.

The dependent care provisions represent sound public policy. They help to insure that young children are placed in optional secure child care arrangements. At the same time, they allow families to care for elderly or disabled relatives reducing the incidence of costly institutional care.

STATEMENT

Mr. Chairman, members of the Committee, CDF is a national public charity created to provide a long-range and systematic voice on behalf of the nation's children. We are organized into four program areas: education, child health, child welfare, and child care and family support services. We address these issues through research, public education, monitoring of federal and state administrative and legislative policies and practices, network building, technical assistance to national, state, and local groups, litigation, community organizing, and formation of specific issue coalitions.

We are heartened that the Ways and Means Committee has provided a forum to discuss the Economic Equity Act, and appreciate the opportunity to testify on the improvements in the Dependent Care Tax Credit included in Title II. These improvements expand the sliding scale to 50 percent for families earning under $10,000 and make the credit refundable. Title II also includes an important provision which would allow non-profit dependent care organizations to qualify for tax exempt status. This provision would cause no reduction in federal revenues but would remedy a problem for infant care and after-school care programs, many of which under current regulations fail to meet the requirement that they be operated exclusively for educational purposes. It is particularly difficult for infant care programs to demonstrate a "curriculum". After-school care is geared to children who have been "educated" during school hours and require a recreational and custodial situation.

CDF also urges the Committee not only to improve the Dependent Care Credit to increase its benefits to lower income working families but also to consider increasing the Earned Income Tax Credit. The E.I.T.C. is the only tax benefit geared specifically to low income working families. It has not been adjusted since 1979, and currently begins to be phased out for a family of four well below the poverty level. The expansion of the E.I.T.C. proposed in the Children's survival bill (H.R. 1603) and by Representative Stark would supplement the limited tax relief provided to low-income working families in the Economic Recovery Tax Act. Citizens with incomes under $10,000 gained an average of $120 while losing an average of $360 through benefit reductions. H.R. 1603 amends the E.I.T.C. to make it reflect the number of dependents in a working family, increases the allowance of credit for each dependent child, and introduces an additional credit for each dependent child needing child care. Representative Stark's bill expands eligibility for the credit by raising the adjusted gross income limit, and also increases the maximum credit. Both bills propose changes with respect to interaction of the E.I.T.C. with eligibility and benefit determinations under the AFDC program that would help the working families who bore the brunt of the 1981 changes in AFDC.

Dependent care—a multigenerational need

The Dependent Care provisions help a wide range of American families to better care for their own family members. They can also help both young and older families to work and contribute to the economy while avoiding the terribly high costs of institutional care for elderly or disabled family members. The Children's Defense Fund has joined with 47 other national organizations including the American Association of Retired Persons, the National Association of Retarded Citizens, and the Association of Junior Leagues in a Multigenerational Coalition on Dependent Care. We represent constituencies at every stage of the life cycle and we share a common concern—the lack of adequate support available to struggling working families to help them meet their dependent care responsibilities.

Working families with young children or elderly or disabled relatives share an important need—the need for support in caring for their dependents. Women bear a disproportionate share of this responsibility. During their early lives, they must balance a job outside the home with the responsibilities in raising a family. After their children become independent, they are often still faced with two taxing jobs as they take on the burden of caring for their aging parents or husbands. The Dependent Care Tax Credit can offer families even more help in meeting the caregiving needs not only of children and elderly relatives but also of disabled dependents.

The need for child care is critical for young families

CDF is particularly concerned about the ability of the credit to help families meet their child care needs. The supply of affordable child care now lags so far behind the need that as many as 6 to 7 million children 13 years old and under, including many preschoolers, may go without care for significant parts of each day while parents work. As more and more parents of young children work, child care needs will become even more of a problem.

Almost 46 percent of mothers with children under three are in the labor force.

Almost 57 percent of mothers with children ages three to five are in the labor force.

By 1990, at least half of all preschool children, 11.5 million, will have mothers in the labor force, as will about 17.2 million, or 60 percent, of all school-age children.

The need for infant care is steadily climbing. At the other end of the spectrum, the lack of after-school programs and funding for low-income children leave millions of school-age children as young as six waiting up to four hours a day in empty homes or in school yards until parents return from work.

Mothers work because of economic necessity. Two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. Almost one in six American families is headed by a woman. Over one-third of one-parent working families, most often headed by women, live below the poverty level. A mother in Massachusetts talks about the importance of child care to her ability to work:

"Things are very difficult for me financially right now, but I'm glad I have not lost my day care totally, as I thought I might at one point last year. I need day care so I can work and attend school. Even though the incentive is not there to work, I felt trapped in the welfare system. Day care has given me the freedom to get an education so that I can get employment and some day get totally out of the welfare system."

Secretary Margaret Heckler while testifying before this Committee shared this mother's sentiments: "Availability of adequate day care is an essential element if welfare mothers or others with young children are to work".

Lack of affordable child care is a major factor in keeping women and children in poverty. The U.S. Commission on Civil Rights notes that the inability to locate affordable child care restricts not only women's employment and training opportunities but also their ability to participate in federally supported education programs. A number of studies have shown that approximately one of every five or six women is unemployed because she is unable to make satisfactory child care arrangements. "Who's Taking Care of Our Kids," a recent survey on child care arrangements in

Utah, revealed that 46 percent of unemployed mothers who were interviewed said they would work if quality child care were available.

The United States has always had a patchwork child care system. Since 1981, it has been rapidly unraveling. In Fiscal Year 1982, the Title XX Social Services Block Grant, the largest source of direct support for child care, had its funding reduced from $3.1 billion to $2.4 billion, a 21 percent cut. A targeted $200 million for child care and a separate training program were also eliminated. The Child Care Food Program was cut by 30 percent. The amount of child care costs that families can be compensated for under Aid to Families with Dependent Children (AFDC) program was limited. Finally, many child care programs lost critical staff when the Public Services Employment component of CETA was eliminated.

At CDF, we were concerned about what was happening to child care support for families at the lower end of the economic spectrum. We decided to focus on Title XX as the most important federal source of this support. We surveyed 46 states and the District of Columbia to determine the impact of the cuts in Title XX on child care. The results were alarming. The 21 percent in Title XX has triggered equivalent or greater cuts in state child care systems throughout the country:

32 States are providing Title XX child care to fewer children in 1983 than in 1981 and have cut their Title XX expenditures for child care. 16 States have cut Title XX expenditures for child care more than 21 percent.

31 States have accomplished reductions in the number of children served by making it harder for families to become eligible. 4 States has made low income working families who are not eligible for AFDC completely ineligible for Title XX child care. 6 States have lowered the percentage of the State's median income that low income working families can earn and still be eligible for Title XX child care.

6 States have cut back on after-school care previously provided through Title XX.

19 States have increased fees for services, imposed minimum fees or allowed co-payments for Title XX child care.

24 States have reduced funds for training child care workers.

33 States have lowered their child care standards for Title XX programs.

32 States have cut back on the number cf child care staff.

10 States have shifted from providing child care to low income working families on AFDC through Title XX to reimbursing these families for their child care expenses through AFDC's Title IV-A Child Care Disregard. However, this program is not equally beneficial to families.

Budget cuts deny assistance to working families

Federal, state, and local budget cuts have placed great strains on child care centers and family day care homes already receiving fragmented and inadequate support. In order to keep their doors open, some child care centers have begun to serve fewer low-income children and families. New policies have eliminated child care for these families or resulted in fees that poor families cannot pay. Centers have switched to a greater number of higher income families who can pay. A state day care administrator comments: "Programs are taking fewer subsidized children and more whose parents can afford to pay privately for their care. Instead of taking ten state-funded children, they are taking two." This pattern can be seen across the country.

In January 1980, two child care centers in Black Hawk County, Iowa, served a total of 42 fee-paying children and 58 poor children subsidized under Title XX. In November 1982, the centers served 69 children whose parents paid full costs and only 42 children who received Title XX assistance.

In Wilmington, Delaware, the Salvation Army opened a center to serve the children of working poor families. Recently, it faced the prospect of closing because of dwindling enrollment. About two-thirds of its children used to be subsidized by Title XX; now only about one-third receive subsidies.

A Grand Rapids, Michigan, day care center used to serve 55 children, all of whom received public subsidies. Now the center serves 31 children, none of whom receives a subsidy.

The number of children who have lost child care are disquieting.—Between 8,400 and 12,000 New York State children have lost day care purchased for them by public funds between 1981 and 1983. The day care losses have directly hit the working poor. Since 1981, nine counties have totally eliminated Title XX subsidies to these families. There are now 34 counties in New York with no subsidy for non-AFDC working families.

Illinois has gone from serving 28,100 children to 18,000.

Delaware has gone from serving 2,039 children to 995.

Virginia has gone from serving 19,505 children to 15,681.

Pennsylvania has gone from serving 23,700 children to 21,786.
Nevada has gone from serving 879 children to 457.
Iowa has gone from serving 1,729 children to 1,200.
New Hampshire has gone from serving 4,000 children to 3,000.
West Virginia has gone from serving 5,200 children to 3,900.

Children are being shifted to less supportive child care arrangements

The results of federal, state, and local cutbacks in child care for women who are struggling to improve their family's situation through employment or training are extremely painful.

Children are being left alone or have been switched to less familiar, and often less supportive, child care arrangements.

A survey of selected families indicates that the loss of subsidy in New York State has resulted in increased numbers of children left alone. A state study of Westchester County concluded that the loss of day care increased risk of maltreatment or neglect. Some parents chose to leave work altogether and to go on welfare rather than to neglect their children. Many struggled to pay the fees of centers, often unsuccessfully. Others placed children into the care of older siblings. Still others were forced into inadequate babysitting arrangements where nutrition, stimulation, and child development were lacking. For some children, arrangements are sporadic, resulting in harmful shifting from caretaker to caretaker. It is estimated that at least one-sixth of children affected by funding cuts are regularly left unsupervised.

The Johnson County, Kansas, Day Care Association sent a questionnaire to the county's day care providers after many children lost Title XX child care subsidies. They found that 17 percent of the parents had quit work, 10 percent of the children had been taken to unlicensed day care arrangements, and 7 percent of the children were not receiving any care while their parents worked.

In 1981, 739 West Virginia families lost child care. Some 565 of these families responded to a questionnaire regarding their current child care arrangements. A total of 391 children had experienced some type of change in child care arrangements. At least 79 children were caring for themselves.

A Rhode Island child care center, located in a public housing project, had 22 children enrolled last year. Five children remain. The director reports that some children are being cared for by teenaged high school dropouts; others she watches hanging out on the nearby playground.

In Pittsburgh, a combination of Pennsylvania policies—including tighter eligibility criteria and fees for services—resulted in over 200 children losing child care services, 10 percent of the total number being served. Some parents quit work. One parent commented, "I'm forced to leave my child in the care of an unlicensed babysitter whom I don't trust as much as the licensed day care provider." Another mother says, "My children are no longer with me because I couldn't find day care. The children are with their grandparents." Many older children have been forced to stay home from school to care for preschool brothers and sisters.

The need for additional child care assistance to working families is highlighted by the waiting lists for Title XX slots in three states: Gorgia includes over 5,000 families, Massachusetts has approximately 6,000 on their list, and Florida has 4,000 families who need help in meeting their child care needs. We are most appreciative that this Committee recognized the importance of restoring funds to the Title XX Social Services Block Grant and raised the ceiling to $2.7 billion. However, we must ask you for more. We are still $600 million short of the $3.3 billion that Title XX would have received it it had not been cut in OBRA. An expansion of the Dependent Care Tax Credit along with a further increase in the Title XX Ceiling would help many of the families who desperately need child care.

Women continuously face dependent care responsibilities

Once children are grown, women are still faced with dependent care responsibilities. One in ten middle-aged women between 45 and 65 has responsibility for an older relative. Almost one million women aged 44 to 58 claim that the health of a family member limits their work. Moreover, in 1975, one out of eight retired women said that they were retired because they were needed at home.

Middle-aged women trying to re-enter the labor force after taking time out to care for their children find themselves caught in a particular bind. If they cannot obtain help in caring for their older parents, they cannot move ahead to go back to work. Firstly, they are stymied from obtaining the necessary training for a new career. Then it is more difficult for them to hold down a job long enough to develop sufficient credit for Social Security and contributions to private pension funds, which would protect them in their own retirement years. Displaced homemakers are obviously at an even greater disadvantage.

It is also more likely that these middle-aged women are caring for women. The average age of widowhood is 56; there are over twice as many women who are over 85 as men.

Families with disabled relatives could benefit

Another group who would benefit from the changes in the dependent care credit are families with disabled relatives. Because these dependents often require costly special services and equipment, those caring for them have a great need to earn income. Despite the importance of appropriate care, families find it exceedingly difficult to locate such care for the estimated 500,000 handicapped children under 6 in this country as well as the 4.2 million school-age children with handicaps. Additionally, there are some 8.4 million severely disabled adults (aged 18 to 64) who are living in families with at least one other adult. Help in meeting the expenses of care for these children and adults could make it possible for other family members to enter the labor force and better meet their entire families' needs.

How additional help can be provided to families

In 1981, Congress replaced the previous flat rate credit for dependent care with a sliding scale that focused the maximum benefit of the credit on lower-income households. The scale allows a 30 percent credit for work-related dependent care expenditures up to $2,400 for taxpayers with incomes of $10,000 or less; the credit is reduced by one percentage point for each $2,000 of income between $10,000 and $28,000 to a minimum of 20 percent. Currently, a family earning $10,000 a year would have to pay $2,400 per year, nearly one-fourth of its income, to receive the maximum credit of $720. In this case, dependent care would represent an out-of-pocket expense of 17 percent of income. However, lower-income families can afford to pay no more than 10 percent of income for dependent care expenses. The average cost of center-based child care for children ages three to five ranges from $2,200 to $3,200 per child; family day care costs range between $1,200 and $2,200 per child.

Both of the changes in the Equity Act, which are also included in H.R. 1991 and H.R. 2093, are important. The expanded slide would offer increased assistance to families. Refundability would allow them to take full advantage of the new benefit. Refundability is critical not only to enable families with no tax liability to utilize the credit but also to allow those with limited tax burdens full access to the credit. Consider a two-parent household with two children earning $14,999 a year. They have child care expenses of $2,300; one child is enrolled in a full day program while an older child benefits from an after-school program. This family would receive an increased credit of $460 if the sliding scale were expanded. Without refundability, they would lose $168 of their new benefit.

This is an opportune time to improve the credit

The timing is ripe for the passage of these dependent care provisions. In tax year 1983, for the first time, a line for this credit will appear on the 1040A short form. This is a key change. It will make the existence of the credit much more meaningful for lower-income families, the majority of whom use a short form. Up until last year, 1040A filers did not even receive a notice of the credit's availability in their tax packets. It will now be significantly easier for these families to utilize the credit and to receive new help from the expansion contained in Title II of the Economic Equity Act.

We recognize the difficult choices that the Congress must make in light of the pressure to reduce the increasing deficit. However, the improvements in the Dependent Care Credit represent sound public policy. They will help families to insure that their children—and our future are cared for in more optimal child care arrangements. Simultaneously, they will give families additional help in caring for aging or disabled dependents, reducing the extraordinary costs of institutional care. Studies show that older persons with kin are usually admitted to institutions at a more advanced age and with greater impairment than institutionalized elderly without kin, indicating that relatives can provide support to minimize costly institutional care. Yet, adequate support is not available to families who want to take on the responsibility of home care. The changes in the Dependent Care Tax Credit will provide rational fiscal incentives for families to stay together, support each other, and remain in the work force. These uncomplicated legislative provisions are unique in their far-reaching effects.

We hope that Congress will take this unusual opportunity to create a support system that strengthens families and assists family members of all generations.

Mrs. **Kennelly**. Thank you.
Ms. Campbell.

STATEMENT OF NANCY DUFF CAMPBELL, ATTORNEY, ON BEHALF OF THE NATIONAL WOMEN'S LAW CENTER AND CHILD CARE LAW CENTER, ACCOMPANIED BY SALLY F. GOLDFARB, LEGAL FELLOW

Ms. **Campbell**. Thank you. I am here with Sally Goldfarb. We are attorneys at the National Women's Law Center and are testifying on behalf of the center and the Child Care Law Center.

Today, I would like, so as not to repeat what has gone on before, to put my statement into the record and emphasize that our purpose here today is to really talk about child care not just as a children's issue but as a women's issue. As has been said, women at every age of their life cycle bear the responsibility not only for caring for children, and children of all ages, but also for caring for their relatives, when they are older or disabled, and for their spouses and spouses' family relatives who are older or disabled. Therefore, the value of the dependent care credit to women cannot be underestimated in helping them meet these responsibilities.

Again, we are talking about, when we talk about children, not just mothers of school age children, not just mothers of pre-school-age children, but also mothers of infants, as has been emphasized, and women who are taking care of other relatives who are dependent upon them. Women have this responsibility when their children are young, and as women get older they take on the responsibility for others of their relatives when they are disabled or older, too. Often, of course, the relatives they are taking care of are themselves women, because of the differences in age spans and life expectancies of women as compared to men.

Although, of course, the tax credit is not the only form of Federal assistance that goes to support child care and should not be the only form, it is an important one. It reaches many people. And, as Helen said, with the advent of the credit on the short form we hope it will reach many more people, particularly low-income individuals.

In 1981, the Congress targeted the tax credit much more on low-income individuals than it had been targeted before. But we need the additional targeting that is in the Economic Equity Act to give meaning to the credit for low-income individuals, particularly women and their families. Many women are the sole providers of their family, and yet they make only 59 cents for every dollar earned by men. With that meager sum, they have a difficult time supporting their families, let alone supporting the child care and dependent care needs of their families.

Even when women are the second earners in their families—and I emphasize second, since their earnings are almost always lower than their male companions—they work because they have to, because the numbers of low-income people in this country and the numbers of moderate income people in this country means that in many, many more families, as time goes by, both of the adults in the family are providers for their families.

Women living alone, in couples, and women living with other relatives and friends need Federal support in helping them meet child care costs. We support both the increase in the slide and the refundability provisions of the act. And we also support the provisions that would help nonprofit providers get tax exemption for their entities. It is not impossible for them to do so, but because of the difficulty of proving they are educational or charitable they have had to jump through hoops often in order to establish their status.

With that change, we believe that not only would there be more providers and thus the availability of care would be expanded, but also those providers would be able to raise revenues from sources other than just fees because of their nonprofit tax-exempt status, and that would encourage the availability of care and help providers to meet the costs of care in ways other than fees.

So we thank you for permitting us to testify, and we urge you to pass both of the provisions or, I should say, perhaps all three of the provisions in the act. Thank you.

[The prepared statement of Ms. Campbell and Ms. Goldfarb follows:]

STATEMENT OF THE NATIONAL WOMEN'S LAW CENTER AND CHILD CARE LAW CENTER, PREPARED BY SALLY F. GOLDFARB AND NANCY DUFF CAMPBELL, NATIONAL WOMEN'S LAW CENTER

Mr. Chairman and members of the Committee, the National Women's Law Center is a national legal organization which has worked for over a decade to protect and advance women's legal rights. The Child Care Law Center, located in San Francisco, California, is a legal organization whose purpose is to foster the development of quality, affordable child care programs at the local, state and national level. We are pleased to have this opportunity to testify on behalf of Title II of the Economic Equity Act, H.R. 2090, which contains important improvements in the Dependent Care Tax Credit as well as a provision making nonprofit dependent care organizations tax-exempt. By increasing the Dependent Care Tax Credit's sliding scale to 50 percent and making the credit refundable, Title II offers much-needed assistance to all families—especially poor families—who are grappling with the problem of providing adequate care for children and elderly or disabled relatives.

Arranging care for children and elderly or disabled dependents is a burden that falls particularly hard on women, who are usually expected to provide that care even though their circumstances may not permit them to do so. Sixty-two percent of mothers of school-age children are in the paid labor force. Almost 57 percent of mothers with children aged three to five work outside the home, as do almost 46 percent of mothers with children under age three. Thirty-one percent of currently married women with a child under the age of one year are in the paid labor force. These numbers are expected to rise during this decade.

Dependent care responsibilities are not limited to those women in the paid work force who have young children. One in ten of all women aged 45 to 65 has responsibility for an older relative. Almost one million women between the ages of 44 and 58 report that the health of a family member limits their work. One out of eight retired women reported in 1975 that they had retired because they were needed at home to care for dependents. Disabled relatives also require care. There are approximately 500,000 handicapped children under the age of 6 and 4.2 million handicapped school-aged children in this country, as well as 8.4 million severely disabled adults between the ages of 18 and 64 who are living in families with at least one other adult.

Women work out of economic necessity. Close to one-fifth of all families with children under 18 years of age are headed by women, with no husband present. Among blacks, 44 percent of children live with their mother only. These female heads of households are the principal sources of support for their families. Married women are also essential providers of family income. Among married women who work outside the home, 27 percent have husbands who earn less than $10,000, 51 percent have husbands who earn less than $15,000, and 73 percent have husbands who earn less than $20,000.

Women who work outside the home to provide financial support for themselves and their families often have great difficulty finding adequate, affordable care for dependents.[1] Average costs for dependent care are high.

AVERAGE DEPENDENT CARE COSTS

Infant (under 2 years): group or center, $3,000 to $5,000 per year; family day care, $1,800 to $3,500 per year. Child (3 to 5 years): group or center, $2,200 to $3,200 per year; family day care, $1,200 to $2,200 per year. Child (school age): $10 to $50 per week. Adult: $11.82 to $50 per day.

These costs naturally hit the poor the hardest. More than one fifth of all children live in households with incomes below the poverty level. Among blacks, 31 percent of all families with children live below the poverty level. The poverty level of single-parent families headed by women is particularly high: more than 25 percent of white female-headed single-parent families are below the poverty line, as are a staggering 58.6 percent of black families headed by women alone. Over 2.7 million women aged 45 to 65, many of whom have responsibility for elderly or disabled relatives, are below the poverty line.

Congress' change to a sliding scale for the Dependent Care Tax Credit in 1981 was a crucial step in targeting the credit toward poor families. Under current law, a taxpayer is allowed a tax credit for employment-related expenses incurred for the care of a dependent child or a disabled spouse or dependent. The maximum credit is 30 percent of expenses up to $2,400 for one child (or $4,800 for two or more children) for taxpayers with adjusted gross incomes of $10,000 or less. The percentage of the credit declines (by 1 percent per $2,000 of adjusted gross income) to 20 percent for families with adjusted gross incomes of over $28,000.

The credit requires the further fine-tuning offered by Title II of the Economic Equity Act in order to be of greater assistance to those who require it the most: low-income workers. Title II would expand the sliding scale to permit a credit of 50 percent of all qualifying dependent care expenses (up to the current $2,400 and $4,800 ceilings) for families with adjusted gross incomes of $10,000 or less. The credit would decline (by 1 percent for every $1,000 of adjusted gross income) to 20 percent for families with adjusted gross incomes over $39,000. Since child care consumes a large proportion of the total income of many families at the lower end of the income scale (it is usually the third largest expenditure, after food and shelter), this increase in the percentage of the credit is sorely needed.

Another change included in Title II would make the Dependent Care Tax Credit refundable. Currently, many families whose low income causes their tax liability to be low or nonexistent fail to receive the full benefit offered by the credit. Because the credit may only be used to reduce existing tax liability, the credit is often of least use to those whose poverty makes them most needy of assistance. Making the credit refundable would assure that no family would lose all or part of its credit because its adjusted gross income was too low.

For example, a woman who earns $10,000 and hires a caregiver for her young child and her elderly mother at the cost of $1,650 for 1983 would be entitled to a $495 tax credit to offset her 1983 tax liability of $579. In 1984, if the sliding scale were expanded as provided by Title II, she would be entitled to an $825 tax credit, an increase of $330. However, because her 1984 tax liability is only $553, she would lose $272 of her 1984 credit in the absence of a refundability provision.

We believe that the improvements in the Dependent Care Tax Credit provided by Title II are important and necessary, and that in light of the goals to be served, their cost is reasonable. The Joint Committee on Taxation has estimated the costs of Title II as follows:

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[1] Although the Dependent Care Tax Credit is currently available for "employment-related expenses" only, paid employment is not the only reason women require access to dependent care. Those who wish to pursue their schooling or who have physical or emotional health problems are among the many who need assistance in caring for their children and other dependents.

[In millions of dollars]

	Fiscal year—			
	1984	1985	1986	1987
Expanded sliding scale	100	600	800	800
Refundability of the expanded credit		300	300	300

The tax credit provisions of Title II will enable more family members to choose to work, thus permitting them to support their families, reduce dependence on public assistance programs, and pay taxes. Various studies have shown that for between 17 percent and 47 percent of unemployed women, a principal reason for unemployment is the lack of adequate child care arrangements. Title II will also provide an increasingly attractive alternative to institutionalization for the elderly and disabled, which is enormously expensive and is often subsidized by Medicare or Medicaid. And of course, the social costs of allowing children to grown up without adequate supervision for large portions of each day—as many parents are forced to do because of their inability to afford care for the full period that they are at work—is beyond measure.

Another provision in Title II would eliminate the obstacle that certain non-profit dependent care providers now face in demonstrating that they are "educational" or "charitable" for the purpose of obtaining tax-exempt status. Infant care programs and after-school programs for school-aged children are often seen as custodial and recreational rather than educational in the traditional sense, and charitable status may not be available to dependent care organizations whose services are not provided primarily to low-income children. Title II would make nonresidential dependent care organizations qualify as "educational" as long as substantially all of the services provided by the organization are for the purpose of enabling individuals to be gainfully employed, and the services provided by the organization are available to the general public. Making tax-exempt status easier to obtain will stimulate an increase in the number of dependent care providers. Furthermore, by making contributions to such providers tax-deductible, Title II will expand their sources of income.

Revisions in the tax code are of course only one means of providing federal assistance for child care. Title XX of the Social Security Act, and the Aid to Families with Dependent Children Program, both of which provide direct subsidies to help meet child care expenses of low-income families, are also federal funding mechanisms that need to be strengthened. Nonetheless, the tax credit has an important role to play in increasing the availability of child and dependent care. By easing the financial burden of hiring caregivers, the tax credit permits working family members to choose to keep an elderly or disabled family member in the home rather than in an institution. Perhaps most important, the credit helps those with children or other dependent care responsibilities to choose to work outside the home. Broadening the availability of tax-exempt status for dependent care organizations is also an important step. We urge your support for Title II of H.R. 2090, and for H.R. 2093 and H.R. 1991. These provisions make an important contribution to the lives of all working families with children and other dependents in need of care.

Mrs. KENNELLY. Carole Rogin.

STATEMENT OF CAROLE M. ROGIN, EXECUTIVE DIRECTOR, THE NATIONAL ASSOCIATION FOR CHILD CARE MANAGEMENT

Ms. ROGIN. Thank you.

I am Carole Rogin, the executive director of the National Association for Child Care Management, and we appreciate the opportunity to provide our views today.

By way of background and to introduce you to our organization, the National Association for Child Care Management is the organization of private proprietary—that is, for profit—child care businesses in this country. Our members are roughly 300 companies that own and operate over 2,000 child care centers throughout the country. They care for approximately 200,000-plus children of

America's working families. They have created a service industry in our country and have built a child care vehicle over the past 10 years, and they will continue to grow over the next 10, provided that there is an opportunity for them to provide a service in the communities in which they operate.

To summarize for you, we are here to provide our support for two specific aspects of the dependent care aspects of the Economic Equity Act. Those are, the increase in the dependent care tax credit to 50 percent at the lower end of the income scale; and to provide for its refundability for those families whose tax liability does not equal the credit due them.

We have serious reservations regarding one other aspect, that of easing the requirements for nonprofit centers to obtain tax-exempt status. Our position is based on the following: First, we believe that an increase in the child care dependent care tax credit will extend the benefit and target the benefit to those most in need. It will truly address the universal quality of the dependent care tax credit.

Second, both the increase and the refundability provision will provide an incentive for those families at the lower end of the income scale to remain in or return to the work force rather than remaining on welfare rolls.

Third, the work incentive included in these provisions will provide additional taxable revenues.

Fourth, and very importantly, both of these provisions will preserve the element of parental choice of the kind of child care that families want and need.

Fifth, and finally, we believe that these provisions will preserve the appropriate role of the Federal Government as a supporter of policies rather than a direct provider of child care services.

For those same reasons, we do not support the provision to ease the tax-exempt acquisition. We believe that this provision ignores the nature of a consumer demand-driven service industry. We believe it fosters development in our country of one specific kind of child care over another, and we believe that it creates tax-consuming rather than taxpaying child care entities.

Thank you.

[The prepared statement follows:]

STATEMENT OF CAROLE M. ROGIN, EXECUTIVE DIRECTOR, THE NATIONAL ASSOCIATION FOR CHILD CARE MANAGEMENT

SUMMARY

The National Association for Child Care Management (NACCM), representing the private, proprietary child care owners and operators in the United States, offers its full support for two provisions of the Dependent Care section of the 1983 Economic Equity Act and similar legislation.

NACCM views the Dependent Care Tax Credit as an extremely effective economic measure to encourage workforce participation, to stimulate worker productivity, and to support private sector initiatives—rather than spend government tax dollars—to meet the child care needs of America's working families. Consequently, the Associaiton supports the provision to increase the Dependent Care Tax Credit from the current 30 percent of work-related child care expenditures to 50 percent for taxpayers with incomes of less than $10,000. Additionally, NACCM supports the provision to make the credit refundable for those workers whose earned credit exceeds their income tax liability.

NACCM's support for these two provisions is based on the following rationale: these enhancements to the current credit make this tax vehicle all-inclusive; they target the greatest benefit to those families most in need; they preserve the important element of parental choice of child care; and, finally, the provisions provide a strong incentive for parents to work, rather than use welfare to support their families, and thus will ultimately generate additional taxable income.

NACCM opposes the provision to ease the requirements for child care organizations and entities that wish to obtain tax-exempt status. We believe that this aspect is incompatible with the other two provisions and, further, would foster an unhealthy stimulation of tax-exempt rather than tax-paying child care centers.

STATEMENT

Mr. Chairman, Members of the Committee, I am Carole Rogin, Executive Director of the National Association for Child Care Management. I appreciate the opportunity to present to you today our support for two provisions of the Dependent Care aspects of the Economic Equity Act and similar legislation and our serious reservations regarding a third related legislative initiative.

As background for you, the National Association for Child Care Management—NACCM—is the organization of private, proprietary child care businesses in the United States. Our 300 member companies own and operate over 2,000 licensed child care centers throughout the country. These child care centers serve approximately 188,000 children of America's young working families, the families who are the major beneficiaries of the dependent care tax credit initiatives. Our members range in size from large, multi-unit companies, which operate hundreds of child care centers in many states, to single-center, sole proprietorships that serve individual, local communities.

Our industry is young, vibrant and growing annually to meet the child care needs of young families. We are a service industry, characterized by small businesses that seek to provide quality, licensed child care at an affordable cost to those families. Further, our industry grew out of entrepreneurial efforts that recognized a fundamental change in the complexion of the U.S. workforce. You have the statistics before you that demonstrate the dramatic increases in female workers, in single-parent families, and in the percentage of working women with children under six years of age who, by choice or by necessity, remain in the workforce. Private, proprietary, center-based child care serves this new workforce.

Several of the provisions of this proposed legislation relate directly to the child care requirements of this workforce and impact on our ability to meet those requirements. NACCM offers to you today our full support of the provisions to increase the Dependent Care Tax Credit to 50 percent at the lower end of the economic scale and to make the credit refundable for those whose earned credit exceeds their income tax liability. However, NACCM must also inform you of our objections to a third legislative provision which would ease the requirements for obtaining tax-exempt status for certain child-care providing entities and organizations.

I will address each of the three provisions separately, but would like to preface that with NACCM's basic perspective. As an industry, we support the current Administration's efforts to revitalize the American economy and to put America back to work through private sector initiatives. We wholeheartedly support measures that will provide incentives for businesses to create jobs and for people to seek jobs, and to work in those jobs at the peak of their productivity.

From this perspective, we offer our support for the improvements in the Dependent Care Tax Credit and our objections to the unhealthy stimulation of tax-exempt rather than tax-paying child care centers.

NACCM endorses the provision to increase the Dependent Care Tax Credit from the current 30 percent of work-related dependent care expenditures for taxpayers with incomes of $10,000 or less to the more realistic level of support of 50 percent. This improvement will focus the increased benefit on the population most in need, will strengthen economic efficiency in the marketplace by enhancing the work incentive, and will allow parents to better afford quality child care arrangements of their choice.

Statistics indicate that child care is the fourth largest household expenditure for young families. Many families who are dependent on government assistance today would have a better opportunity to attain self-sufficiency if they could afford child care expenses.

Families working at minimum wage, or close to minimum wage jobs, earn too much income to qualify for welfare benefits, but do not earn enough income to pay for their child care and their living expenses. The 50 percent tax credit addresses needs of both of these groups.

For example, based on an average weekly fee of $40 for full-day child care in a center, a minimum wage earner with a weekly income of $146 would be paying a staggering 26 percent of income for child care. Yet, despite this huge expense, one of our member companies has documented that fully 7 percent of its families have incomes below $10,000. Clearly, these families place an extremely high priority on quality child care.

For others in this income range, the options are limited to remaining in the workforce with the least expensive arrangement available—which probably equates to unlicensed care—or to return to the welfare rolls. But, if those families could receive a credit of 50 percent of child care expenses, they would then be spending only 13 percent of income on child care. The improved financial outlook would enable more parents to purchase quality, licensed child care in order to seek employment. Furthermore, those families with low incomes, who are just barely making ends meet, will have additional resources that may enable them to obtain more desirable quality child care arrangements as they remain in the workforce.

In a decade when the tax burden and workforce productivity is so important, NACCM encourages you to consider the benefit of acknowledging that low and moderate income families should be able to receive proportionately greater relief than families with more resources. NACCM believes that over a period of time, the government would recover a significant portion of the cost of the increased credit through additional income and social security taxes which will result from the expanded work effort it should produce.

One additional attractive element of the increased Child Care Tax Credit is the extension of an important parental responsibility to more families—that of parental choice of child care arrangements. By increasing the credit for families at the lowest end of the income scale, you increase their child care options. Rather than being forced into unlicensed or subsidized child care arrangements that they did not choose and may not want, families will receive direct financial relief in the form of more spendable dollars, for use in purchase of child care of their choice.

For the reasons noted above the targeting of benefit to those most in need, the provision of a work incentive, the generation of additional taxable income, and the element of parental choice—we can offer our support for refundability of the Child Care Tax Credit. Refundability is the logical extension of the inclusive nature of the credit. The most attractive aspect of the Dependent Care Credit is the intent that eligibility extends to all working parents.

However, the intent is not fully realized unless those families with no liability or very limited tax liability are able to utilize the full credit. By making the credit refundable, the Dependent Care benefit would be all-inclusive.

While some may view this refundability provision as direct subsidization of child care by the government, we would point out again that provision of spendable child care dollars directly to families is far more sensible than provision of government-funded and bureaucratically-administered child care services. Families can choose their child care in the marketplace, their child care dollars can fuel the market, and the private sector can expand to meet the increased need. The refundability of the credit essentially puts power in the consumer's pocket and takes the government another healthy step away from its inappropriate role as a child care provider.

From these comments on the increase in the sliding scale and the refundability of the Child Care Tax Credit, I trust the Committee will understand clearly why NACCM opposes easing the eligibility requirements for obtaining tax-exempt status for child care centers. This provision does not offer economic incentives, it does not contribute to child care as a viable service industry, and, from our perspective, it does not make sense.

The intent of this provision, we are told, is to stimulate such "unique" and "non-standard" services as infant care and before-and-after school care. In fact, these services are neither unique nor non-standard. Both infant care and, to an even greater degree, before-and-after school programs, are currently available, and have a high potential for growth and expansion through the private sector. This potential is even more dramatic if the 50 percent Child Care Tax Credit and its refundable provision are supported by the Congress.

NACCM data indicates that member companies offer an array of services that include full and partial-day care, before-and-after school programs, summer activities, and day camps uniquely designed for infants, toddlers, pre-schoolers and/or school-aged children. Over 70 percent of NACCM member centers operate from 10 to 12 hours a day, offering flexibility to accommodate different schedules for parents and children. Additionally, a recent NACCM member survey indicates that approximately 34 percent of the total NACCM member centers enrollment are school-aged children and children 3 years of age and younger.

Additionally, licensed child care spaces are available in today's marketplace, as evidenced by the average of 76 percent occupancy in NACCM member companies last year. Therefore, it seem inappropriate in a free enterprise society to put private, proprietary child care centers at a competitive disadvantage. For for-profit, taxpaying child care providers invested millions of dollars during the 1970's to meet rising child care demands and will continue to meet that demand in the 1980's, if there is a fair opportunity to earn a profit.

Consequently, NACCM views support of an increase in the Child Care Tax Credit and refundability as incompatible with incentives that would favor one type of child care provider over another. If we agree that the two provisions will increase access, availability and affordability of quality child care, can we logically conclude that we also require an additional incentive to create tax-exempt, rather than tax-paying, child care centers? NACCM cannot draw that conclusion and, thus, cannot support an initiative that will impede our members' ability to grow by forcing them to compete with tax-subsidized alternatives. We respectfully request your careful consideration and ultimate opposition to this one proposal.

We all recognize the wisdom of our investments in today's children by providing them with the opportunity to develop skills and to grow in a healthy, safe environment with adequate supervision and stimulation. This investment will generate the productive, contributing adult citizens for tomorrow's society. Parents have proven they are wise consumers in the child care marketplace and consider many factors in their choice of a desirable and affordable child care arrangement. The proposed enhancement of the dependent care credit and its refundability encourage the important element of parental choice by providing the benefit directly to the taxpayer for purchase of the quality care that best suits the child's needs and the parents' expectations. These measures do not encourage government involvement in providing care nor do they influence one specific kind of child care choice over another.

In conclusion, NACCM welcomes your consideration of our comments and acknowledges the opportunity provided by the Committee for us to present the perspective of the private, proprietary child care companies. We encourage your support for the 50 percent Child Care Tax Credit and its refundability.

Mrs. KENNELLY. Thank you very much.

I would like the record to show that the Children's Defense Fund and the National Women's Law Center have been very, very generous with their time working with staff and with Members of Congress. I would like to ask today if this could continue as we work through this bill.

And also as to the other witnesses that we had on this bill, Evelyn Murphy and Carole Rogin, if you would also help us. We recognize that you are professional women working in this field to encourage and bring about exactly the things that the act is all about. So I would ask you at this hour if we could come back to you with our questions and concerns.

Mr. Conable.

Mr. CONABLE. Thank you, Madam Chairman. I would like to talk to Ms. Rogin for a minute.

Ms. Rogin, I have generally fought for the position of the for-profit groups here, believing that the service provided is considerably more important than the manner in which it is provided. I must say that I am somewhat surprised at your opposition to tax-exempt status for day care centers.

Would you suggest those centers which now have tax-exempt status lose it?

Ms. ROGIN. Not at all.

Mr. CONABLE. You realize the reasons for the problems of getting tax-exempt status for day care centers and that those reflect the diversity of the services provided?

Ms. ROGIN. Yes.

Mr. **Conable**. As far as we know, most nonprofit child care now qualifies for tax-exempt status, and it is primarily infant care and after-school care which has difficulty meeting the educational test necessary for tax-exempt status.

Is there any rationale for permitting 501(c)(3) status for care of 2- to 3-year-olds, but not for under 2 or school age children?

Ms. **Rogin**. We have no concern whatsoever with nonprofit child care. Our concern is fostering what we consider to be an unhealthy stimulation of nonprofit as opposed to for-profit child care services.

What we are seeing is a rapid growth within the forprofit sector of specifically those programs, the infant programs as well as before- and after school programs, which I think can be categorized as unique nontraditional services.

The forprofit sector has been very active, and I think will continue to be, in meeting demands for both of those kinds of services within a community. And it puts them at a competitive disadvantage.

Mr. **Conable**. Well, do you believe there is any value in diversity in types of day care providers? You don't want to have every day care provider offering over the same type of care, I am sure.

Ms. **Rogin**. Not at all. But what we are finding is that, first of all, the type of care that is provided is not necessarily related to the tax status of the center; and furthermore, that the centers can obtain the tax-exempt status if they so desire it. So, from our perspective, it seems like a piece of legislation that we don't necessarily need.

Mr. **Conable**. I think the forprofits can do very well if they provide good service, and I would hope that you would not take too rigid a position about the mode of delivery of that service. I happen to believe that the services are what is important, and not the form.

I very much doubt that tax exemption can be equated with the Government itself providing the service. We have a very plural system in the United States, and I would like to keep it that way. It seems to me most unfortunate that lots of day care centers have to go through ridiculous gyrations to achieve nonprofit status by converting the idea of playing with a toy into the educational opportunities for manipulation of a bright-colored object. It just seems to me that that is just a little silly, and I am, as I say, somewhat surprised at the competitive impact of your testimony.

Thank you, Madam Chairman.

Mrs. **Kennelly**. Thank you, Mr. Conable.

I would like to thank the panel for appearing before us today.

Ms. **Murphy**. In response to your request, the State of Massachusetts would be glad to help you, and perhaps with my other counterparts from other Economic Affairs offices throughout the other States. They could also be of help.

Thank you.

Mrs. **Kennelly**. I should have waited for an answer. But from what I have heard about your reputation, I thought you might be.

Ms. **Blank**. Can I say that we appreciate your support for us. We appreciate your tenacity and holding a hearing on the Equity Act, because we believe the provisions are so important. And we appreciate Mr. Conable's tenacity over the years on working to make the credit more targeted to lower income families and expanding its benefits for all families.

Mr. CONABLE. Friends, I understand your support of the Economic Equity Act. I hope that that will carry to some recognition of the fact that even the administration's proposal is an improvement, and perhaps that it goes beyond what one might have expected had there not been some tenacious work on the part of Republican Congresswomen and others who acknowledge that this is an area of increasingly social and public concern.

Thank you.

Ms. CAMPBELL. I would just like to agree with what Helen said, and say in particular I think we would like to talk more about the administration's proposal and ways to make it even better.

Mr. CONABLE. I understand.

Ms. CAMPBELL. So we will have——

Mr. CONABLE. I don't expect a millennium in my lifetime.

Mrs. KENNELLY. However, you would have to admit, last week, with the child enforcement, we worked closely on that, and I hope the same is true for this.

Mr. CONABLE. I am not urging political competition except for greater achievement on this issue.

Mrs. KENNELLY. May I ask you to sit by my left side until we get this through.

Thank you very much again.

Our final panel will be William G. Giery, executive secretary, Foodservice & Lodging Institute, accompanied by Robert McDonald, Associate Counsel; Cynthia C. Brubaker, member of the board and member, Public Policy Committee, Association of Junior Leagues; and Connie Mallett, international president, Parents Without Partners, Inc.

Mr. CONABLE. Let me say at the outset to you folks who have been so patient and have to come at the end of the day, I hope you are not dismayed by the fact there are only two of us present. As you know, you are speaking for the record. These hearings get somewhat devoid of drama because there seems to be such a wide area of agreement. The staff will study your testimony, not only your oral but your written testimony, and it is my expectation that the committee will move ahead to try to achieve something here. In other words, what I am saying is don't be dismayed by the small number of people present.

That is not indicative of trouble for the bill. Perhaps there is altogether too broad an area of concensus for drama to emerge in the course of the hearing.

Mrs. KENNELLY. Mr. Giery.

STATEMENT OF WILLIAM G. GIERY, EXECUTIVE SECRETARY, FOODSERVICE & LODGING INSTITUTE, ACCOMPANIED BY ROBERT D. McDONALD, ASSOCIATE COUNSEL

Mr. GIERY. Good afternoon. I am William G. Giery. I am executive secretary of the Foodservice & Lodging Institute, a trade industry group of the major multiunit, multistate restaurant and hotel companies. Collectively, these companies own, operate or have franchise agreements with more than 50,000 individual restaurant and hotel establishments and employ in excess of 2 million people.

I intend to limit my remarks this afternoon to provisions of the bill dealing with the targeted jobs tax credit. On my left is Robert McDonald, associate counsel of the Foodservice and Lodging Institute who also has one short item to discuss with you today.

We believe that the extension to displaced homemakers is an equitable one. They face inordinate hurdles in getting back into the job market. This provides an extra incentive for employers to hire those who have had a tough time in the labor market and it gives many the first step on the economic ladder. We believe it is fitting that the Government provide this step to displaced homemakers.

While expanding targeted job tax credits to homemakers is an essential step, it is no step at all unless the credit is extended. To this end, we hope Congress will include in this bill a 5-year extension to the credit.

One point I would like to add before turning it over to Mr. McDonald is that the Treasury estimates expenditures for fiscal year 1984 on targeted jobs tax credit of $465 million. We believe targeted jobs tax credit has no net cost, rather, it has a substantial cost benefit to the Government.

We have developed some preliminary data on 500 certifications which show that some form of Government assistance is calculated at approximately $86,000 in that package.

Of this total in Government assistance, it appears that $380,000 was saved by the Government in the 6 months subsequent to hire. This is just from 500 certifications.

We believe that the net benefit to the Government just through the avoidance of these transfer payments is $106,000. This is for these 500.

We hope within the next few weeks to increase the data base to 2,000 certifications and request that we have an opportunity to file this information with the committee at that time.

Thank you.

[The prepared statement follows:]

STATEMENT OF WILLIAM G. GIERY, EXECUTIVE SECRETARY, FOODSERVICE & LODGING INSTITUTE

Mr. Chairman and members of the Committee on Ways and Means, we welcome the opportunity to be here this day and I bring with me the best wishes of Jack Cullerton of Hilton Hotels Corporation, a fellow Chicagoan, president-elect of the Foodservice and Lodging Institute.

My name is William G. Giery and I am Executive Secretary of the Foodservice and Lodging Institute, a trade industry group of 42 of the nation's largest foodservice, restaurant and lodging companies. Collectively, these 42 companies own, operate or have franchise agreements with nearly 50 thousand individual establishments and employ in excess of two and one-half million people.

The Institute is here today to voice support for Bill H.R. 2090 which is designed to provide economic equity for homemakers and working women in individual retirement accounts, pension plan survivor benefits, jobs tax credits, dependent care tax credits and other areas.

While the Institute and its members support the entire legislative proposal in principle, our particular concern deals with the provision which would make displaced homemakers, those women who are forced back into the labor market by marriage disruption, eligible for the Targeted Jobs Tax Credit. We enthusiastically support this provision and urge its inclusion in the legislation which will be developed from these hearings. Because of the Institute's overriding commitment to making the Targeted Jobs Tax Credit program a successful one we will limit our remarks to that specific provision.

We are grateful that these hearings are being held because it gives us the opportunity to reiterate once again our belief that the Targeted Jobs Tax Credit is one of the most effective government programs to attack, combat, and, hopefully, lessen the evils of structural unemployment among individuals who have had a hard time entering or re-entering the job market.

The Institute has enthusiastically supported Targeted Jobs Tax Credit since its inception in 1978 and in the ensuing years nothing has occurred to dampen our enthusiasm.

The extension of the credit to eligible displaced homemakers is a logical one for they, like other categories of eligible individuals, face inordinate hurdles in getting back into the job market. Because of the passage of time, skills which they may have developed earlier in their working careers may have been allowed to deteriorate. Additionally, they often lack the necessary marketable skills needed to reenter the labor force. Retraining is needed in most cases. Time and money must be expended by employers on these women while they regain their skills. In many instances, because of children, their hours must be erratic, leaving their place of employment on short notice because of sickness to children or accidents at school. While in most instances, the incidence of disruption is outside their control, even the possibility of such disruption acts as a deterrent to employment.

One cannot blame an employer for not wanting to take a chance. His or her existence in business is based on an ability to supervise and control a smooth running operation.

Even though they may want to work; even though they may have to work, employers are quite naturally reluctant to employ these women knowing that disruption might ensue.

The purpose of the Targeted Jobs Tax Credit is to provide an extra incentive for employers to hire those persons—those who are structurally unemployed and those statistically discriminated against—who have had a tough time in the labor market. It is working for those now eligible. It is giving many hard-to-employ individuals their first step up the economic ladder. It is only fitting that the Federal Government also provide that first step to displaced homemakers.

TARGETED JOBS TAX CREDIT FOR DISPLACED HOMEMAKERS IS USELESS UNLESS ENTIRE PROGRAM IS EXTENDED

While extending Targeted Jobs Tax Credit eligibility to displaced homemakers is an essential step toward establishing an economic foundation for such women, it will be no step at all unless the Congress amends the law to provide for continued existence of the total program.

The Targeted Jobs Tax Credit was originally enacted as part of the Revenue Act of 1978. Before its scheduled expiration on December 31, 1981, Congress revised TJTC and extended it for an additional year in the Economic Recovery Tax Act. Then, in the Tax Equity and Fiscal Responsibility Act of 1982, it was given two more years to live. Now, unless the Congress extends the program again, it will expire on December 31, 1984 and, with it, will go hundreds of thousands of job opportunities for people who desperately need that extra help that TJTC provides.

To this end, we sincerely hope that this Committee and the Congress will extend the entire program for five additional years by amendment to this bill. The five-year extension is absolutely essential if Targeted Jobs Tax Credit is to accomplish what it is intended to do. As we have seen in the past, there was a substantial reduction in utilization during the final year of the program each time it was due to expire. Businesses that want to become involved with the program on a full scale basis are apprehensive about spending the time, money and resources necessary when they believe the program will expire. A five year extension will send those businesses a message that Congress will not let the program die.

EXPLODING SOME MYTHS ABOUT TARGETED JOBS TAX CREDIT UTILIZATION BY BUSINESS

While we have the opportunity and the attention of the members of this distinguished Committee, we wish to answer some of the critics of this program who are quick to say that Targeted Jobs Tax Credit is a mere "windfall" to employers; that employers are obtaining tax credits for hiring persons they would have hired had the credit not existed.

The Targeted Jobs Tax Credit does indeed affect our members' hiring decisions and if displaced homemakers are added to the list of eligibles, I guarantee that our members will actively recruit displaced homemakers with the same determination as we actively recruit from other eligible categories.

Our members go to considerable time, expense and effort to seek out legible individuals from all seven categories. Many have hired in-house TJTC coordinators who travel about the country discussing with district, regional and unit managers ways to increase TJTC utilization. In management training programs or our members, there are orientation sections on TJTC. Training materials are designed to recruit TJTC eligibles. Several companies motivate store managers to hire TJTC eligibles by providing cash bonuses for each eligible hired.

In furthering the TJTC program as a whole, our members have also been able to develop a closer rapport with community groups in areas where they have operations. Several companies have developed cooperative agreements with community self-help groups and community organizations which work to develop job opportunities for disadvantaged individuals.

For the record, I have attached to this statement a list of several of the organizations with whom our members have been working. This list is, by no means, complete, rather it represents a cross-section of representative-type groups.

Our members and the Institute put a great deal of work into making TJTC work and we urge that this provision—the addition of displaced homemakers an an eligible category coupled with a five year extension, be favorably considered.

Another myth that has been allowed to fester is that the Targeted Jobs Tax Credit is a drain on the Treasury. If this is so, then TJTC is as much a drain on the Treasury as accelerated depreciation, investment tax credits, energy tax credits, etc. The difference between those credits and Targeted Jobs Tax Credit is that the latter is an investment in human capital. It is to labor intensive industries exactly what investment tax credit is to capital intensive industries. If I buy a machine that puts people out of work, the Federal Government will allow me to write off that machine in five years so I can buy more machines to put more people out of work.

Let's turn to what Targeted Jobs Tax Credit means in terms of government expenditures. When Targeted Jobs Tax Credit was last extended for two years by the Tax Equity and Fiscal Responsibility Act, the Treasury estimated that it would cost the Government $182 million in 1983 and a total of $1,649 billion over five years through 1987. What this does not take into account is revenues gain through receipt of Federal income taxes from the TJTC eligible hired, the payment of FICA taxes, FUTA taxes, the elimination of state and local assistance payments, etc.

Take an out-of-work individual, married with one child and give him a job through the TJTC making $15,000 a year. At the end of one year, the company for whom he went to work is able to claim a tax credit of $3,000. Since the deduction of wages is reduced by that amount, the credit in the employer's taxes for hiring this individual is about $900 (for an employer in a 70 percent tax bracket).

Before the hiring, all money transactions with that person by government were outlays—unemployment insurance, AFDC payments, state and local welfare payments.

After the hiring, the transactions are, for the most part, reversed, the Federal Government receives $1,242 in estimated federal income tax withholding, a total of $2,010 in combined employer-employee Social Security Tax and $245 in Federal unemployment tax.

We realize that our calculations are very crude here but it is the best we can do. On several occasions we have asked the Treasury and the Joint Committee if they could factor out revenue gains from the credit. Unfortunately, they said it was not in their model.

But, there are revenue gains and those gains make the entire program cost effective, probably the most cost-effective program within the federal government for creating employment. Dollar for dollar, it is the best vehicle available for reducing unemployment and the most effective manner to utilize tax expenditures for the creation of jobs because it stimulates employment without accelerating inflation.

We urge inclusion of a five year extension of Targeted Jobs Tax Credit in this bill as well as the establishment of eligibility to displaced homemakers.

We would be happy to answer any questions you may have.

[Attachment]

COMMUNITY SELF-HELP GROUPS WITH WHOM FLI MEMBERS HAVE WORKED TO DEVELOP JOB OPPORTUNITIES FOR DISADVANTAGED INDIVIDUALS

Goodwill Industries, San Francisco, CA.
YMCA Refugee Job Service, San Francisco, CA.
Chinatown Resource Development Center, San Francisco, CA.

Center for Southeast Asian Refugee Settlement, San Francisco, CA.
Mayor's Committee for the Employment of the Handicapped, San Francisco, CA.
Mount Diablo Rehabilitation Services, Pleasant Hills, CA.
Greater Washington Board of Trade, Washington, D.C.
AFL-CIO Appalachian Council, Charleston, WV.
Alcohol Rehabilitation Center, State of Maryland.
Project Breakthrough (Parole/Probation), State of Maryland.
New England Association of Business, Industry and Rehabilitation, Woodbridge, CT.
Ability Center of DATAHR, Inc., Danbury, CT.
The Constructive Workshops, New Britain, CT.
Easter Seal Community Job Shop, Waterbury, CT.
Easter Seal Goodwill Industry, New Haven, CT.
Easter Seal Rehabilitation Center in Norwich, Stanford, Bridgeport, and Hartford, CT.
Divisions of Vocational Rehabilitation in Hartford, Waterbury and Bridgeport, CT,
WIN Programs in Bridgeport, Bristol, Hartford, Meriden and Manchester, CT.
Parents and Friends of Retarded Citizens, Bridgeport, CT.
Respond Inc., New Haven, CT.
Urban League of Greater New Haven, New Haven, CT.
Aces Academy, Hamden, CT.
Assocation of Retarded Citizens, Hartford, CT.
Minority Employment Program, Springfield, MA.
Springfield Urban League, Springfield, MA.
New England Farm Workers Council, Springfield, MA.
New England Farm Workers Council, Holyoke, MA.
Welfare Service Office, Westfield, MA.
Welfare Service Office, Greenfield, MA.
Employment Training Program, Holyoke, MA.
Welfare Service Office, Springfield, MA.
Welfare Service Office, Pittsfield, MA.
Private Sector Summer Jobs Program, Springfield, MA.
Incentive Community Enterprises Inc., Northampton, MA.
Career Development Services, West Springfield, MA.
Prospect House, Worcester, MA.
Opportunities Industrialization Center, Boston, MA.
Jobs for Youth—Boston, Inc., Boston, MA.
Cornerstone House, Boston, MA.
Urban League of Eastern Mass., Boston, MA.
Job Matching Center, Waltham, MA.
Association for Retarded Citizens, Waltham, MA.
Center for Occupational Awareness, Chelmsford, MA.
East Middlesex Industries, Stoneham, MA.
Project Triangle, Inc., Malden, MA.
Unitas, Inc., Lowell, MA.
N.A.A.C.P., Hyannis, MA.
Cape Cod Tech, Harwich, MA.
Jobs for Bay State Graduates, Taunton, MA.
Pride Workshop, Cambridge, MA.
New Bedford Consortium, New Bedford, MA.
National Research & Demonstration Institute, Waltham, MA.
Alcohol Rehabilitation Center, Jackson, MS.
Vocational Rehabilitation Center, Norfolk, VA.
Ohio Rehabilitation Services Commission, Dayton, OH.
Work Release Program, Columbia, SC.
Work Release Program, Florence, SC.
Goodwill Industries of North Florida, Jacksonville, FL.
Roosevelt Warm Springs Institute for Rehabilitation, Warm Springs, GA.
Learning Skills, Houston, TX.
The Rehabilitation Institute, St. James, NY.
New York State Commission for the Blind and Visually Handicapped, Hempstead, NY.
Nassau County Probation Dept., Mineola, NY.
Suffolk Assn. for Children with Learning Disabilities, Dix Hills, NY.
The Friendship House, Hackensack, NJ.
Community Mental Health Operations, Paterson, NJ.

Urban League of Westchester County, White Plains, NY.
Urban Leagues of Englewood, Moorestown, and Newark, NJ.
Farm Worker Opportunity, Allentown, PA.

POWER & MCDONALD,
Washington, D.C., October 21, 1983.

Re Amendment of TJTC handbook.

Mr. RICHARD GILLILAND,
Director, U.S. Employment Service,
Washington, D.C.

DEAR MR. GILLILAND: We represent the Foodservice and Lodging Institute, a trade association of multi-unit restaurant and hotel companies, as well as a number of individual companies in the industry, on whose behalf we would bring the following matter to your attention.

Our clients are informed that the third edition of the Targeted Jobs Tax Credit (TJTC) Program Handbook (Employment & Training Handbook No. 377), which will be distributed to regional, state, and participating agency TJTC coordinators in the immediate future, will incorporate a major change in the requirements for verification of the eligibility of individuals in the economically disadvantaged targeted groups. The new Handbook provision will recommend certifying state agencies to obtain documentary evidence of the economic eligibility (i.e. family income level) of the individual at the time of certification. The current, well-established practice is to have the applicant himself certify his family income level, with the provision that evidence of such income level may be required later and with full knowledge of the penalties applicable to false statements concerning economic eligibility.

We understand that you have received a number of comments, most notably from state officials themselves, to the effect that this novel procedure is unnecessary and counterproductive. It will significantly delay or preclude certification, especially with respect to low-income individuals most in need of certification to enhance employability and least able as a practical matter to supply the documentation; it will add further administrative burdens to the state agencies already suffering from budget reductions, at a cost far outweighing any benefits in the new requirement; and absolutely no need for this new procedure (i.e. a high level of erroneous certification) has been demonstrated, by the existing sampling procedures or otherwise.

We fully agree with the foregoing points.

For the present, however, our concern is that this novel requirement, significantly altering existing practices, has not been published for comment by interested parties as required by the Administrative Procedure Act. The Act's informal rulemaking requirements apply to agency statements of this nature, which will in actual effect determine the rights of individuals to enhanced employability, the obligations of state officials, and the right of employers to credit for employment of individuals in targeted groups. See, e.g., *Lewis-Mota* v. *Secretary of Labor,* 469 F. 2d 478 (2d Cir. 1972) (issuance of Department of Labor directive, suspending existing list of precertified jobs and locations for which aliens need not present evidence of job offer at time of application for visa, held subject to notice-and-comment rulemaking procedures of APA). We would therefore request that, prior to distribution of this new Handbook provision, it be published for comment pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553. If you determine that issuance of the new provision will take place without rulemaking, please inform us of this decision so that appropriate review of this decision can be sought.

We are confident that the comments and information which will be provided to the Service by interested parties in rulemaking will demonstrate that the new requirement of documentary evidence at the time of certification is unnecessary and contrary to the purposes of the Targeted Jobs Tax Credit.

We would also request that you provide a copy of the proposed third edition of the TJTC Handbook at this time, and that you inform us of the anticipated date of distribution of the edition to regional administrators and to the regional, state and participating agency coordinators. We have enclosed a pro forma Freedom of Information Act request to this effect.

We thank you for your assistance in this matter and look forward to working with you in continuing the viability of this most worthwhile federal program.

Very truly yours,

THOMAS W. POWER.
ROBERT D. MCDONALD.

POWER & McDONALD,
Washington, D.C., October 21, 1983.

Re Freedom of Information Act Request.

Mr. RICHARD GILLILAND,
Director, U.S. Employment Service,
Washington, D.C.

Mr. RAYMOND DONOVAN,
Secretary of Labor,
Washington, D.C.

DEAR MESSRS. GILLILAND AND DONOVAN: Pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. 552, we hereby request the following.

We request a copy of the third edition of Employment and Training Handbook No. 377, the Targeted Jobs Tax Credit (TJTC) Program Handbook. We understand that, although this document has not yet been distributed to regional administrators and to regional, state, and participating agency TJTC coordinators, it is substantially in final form. In the event that it is not yet in substantially final form, we request that the current draft of the document be released at this time, with the final draft released when available.

We also request that you inform us at this time of the date on which the third edition will be distributed to regional administrators and the date on or after which it will be distributed to regional, state, and participating agency TJTC coordinators.

We hereby agree to pay reasonable copying costs in connection with this request.

If you will require any further information in connection with this request, please feel free to contact us. We thank you for your assistance in this matter.

Sincerely,

THOMAS W. POWER.
ROBERT D. McDONALD.

Mr. McDONALD. Madam Chairman, Mr. Conable, I would like to ask for a little help from the committee and borrow a little time from Bill Giery. We have learned that the U.S. Employment Service of the Labor Department plans to publish a new jobs credit handbook which would suggest to the States that they require preliminary proof of income from TJTC eligibles at the time of certification. This has been recommended in the form of having an eligible come into the employment service office with a copy of W-2's of the family or paychecks or State assistance stubs.

This marks a radical departure from past practice and would for the first time require, for example, a teenager in a disadvantaged family to go home and ask his mother and father, brothers and sisters for copies of their documentation of income and return to the State employment office with that documentation.

You can imagine the reaction of a mother and father to that request from a teenager. We feel this requirement is totally unnecessary, inappropriate and a humiliating invasion of family pride and privacy.

Like so many other taxpayers, loan applicants and others, these TJTC applicants come in and provide under oath and under penalty of perjury information that their family does not exceed the lower living standards required. This is more than adequate as has been shown by the survey procedure already in effect to be sure there is not abuse.

We have asked the Labor Department either to withdraw this proposal or subject it to public comment which it has not done to this time. We have copies of our letter to the U.S. Employment Service to this effect and we would ask if at all possible that Members either individually or collectively help us in this dilemma or there will be no effective program available in the future.

Thank you.

Mrs. **Kennelly**. Thank you, sir.

Cynthia Brubaker.

STATEMENT OF CYNTHIA C. BRUBAKER, MEMBER, PUBLIC POLICY COMMITTEE, ASSOCIATION OF JUNIOR LEAGUES, ACCOMPANIED BY GEORGE HASKETT, PUBLIC POLICY STAFF

Ms. **Brubaker**. Good afternoon. It is my pleasure to be here to speak to you in behalf of the Association of Junior Leagues. I am accompanied by George Haskett of the Public Policy Staff. I am currently on the Public Policy Committee in my capacity as a volunteer board member of the association, and past president of the Junior League of South Brevard County, Fla. I have also taught in the Brevard Community College in a displaced homemakers' program.

The association supports the Economic Equity Act. I would like to specifically speak to the section of the act which addresses tax credits for employers of displaced homemakers.

The association has a national position on women's economic issues which states "The Association of Junior Leagues supports the goal of fair and equal economic opportunities for women and men and will advocate for the attainment of this goal." We have supported a variety of legislative initiatives based on this position which was adopted by our membership.

In addition, there are 15 local Junior Leagues deeply involved at this time with displaced homemaker programs with almost 200 Junior League members working as volunteers in these programs.

We are not only involved on a programmatic basis. Our own membership reflects national trends, higher divorce rates, more women returning to the labor market, and an increased need for safe child care.

The association in particular supports provisions which give tax credits to employers who hire the displaced homemaker. This incentive is a crucial factor in helping these women return to the job market and become self-supporting after death, desertion, or divorce from the spouse.

On a personal basis, I would like to speak to you about one displaced homemaker. I have worked with many over the past few years and the obstacles they face are enormous. I have one example. Her name is Lillian, married 17 years with four children. She devoted her married life to being a wife and mother. Her husband was killed in an accident and suddenly, at the age of 37, she found herself the sole supporter for her children, two of whom were still small. She had been employed before her marriage as a sales clerk, but had no other job skills. She came into our program with a variety of needs, the need for confidence, support, child care, job-seeking skills, and so on.

However, she needed employment immediately due to dwindling financial resources. We would like to have taken her through our employability course and enrolled her at the college so she could learn new skills, but we had no time.

So we helped her find a job and it was really tough. She finally found one as a checkout clerk in a local supermarket and was grateful to be employed at all, but it paid minimum wage and she had four kids at home and ends would not meet.

Employers are often reluctant to hire a woman like Lillian. However, Lillian was and is highly motivated and a very hard worker. She would make anyone an excellent employee and she really needed a job that would pay her more.

She will have a difficult time making it on her current wages. Unfortunately, there are many women who are unable to find employment at all. Lillian was one of our success stories.

Due to this example and many other women like Lillian that I have taught and counseled and shared experiences with, I believe that tax credits to employers are an excellent incentive to them to help get these women jobs that provide them with the financial resources necessary to raise their families. I believe it is certainly better for both Lillian and the taxpayer for her to obtain a job rather than to receive welfare and other forms of public assistance.

I therefore urge you to support the Economic Equity Act and in particular that portion of the legislation which deals with tax credits for employers of displaced homemakers.

Thank you for the opportunity to be here today to speak to an issue that means a great deal to me and to many other women in America.

Thank you.

Mrs. KENNELLY. Thank you very much.

[The prepared statement follows:]

STATEMENT OF THE ASSOCIATION OF JUNIOR LEAGUES, INC., PRESENTED BY CYNTHIA BRUBAKER, MEMBER, PUBLIC POLICY COMMITTEE

SUMMARY

The Association of Junior Leagues supports the Economic Equity Act, H.R. 2090, and urges the House Ways and Means Committee to approve those sections of this legislation which are under the committee's jurisdiction.

I. The Association: (a) International women's voluntary organization; (b) 244 Junior Leagues; approximately 149,000 individual members in the United States; and (c) promotes the solution of community problems through voluntary citizen involvement, and trains Junior League members to be effective voluntary participants in their communities.

II. Economic Equity Act: (a) The Association is concerned about the increasing incidence of poverty among female-headed families and general inequities faced by all women, and believe that the Economic Equity Act will remove some of these inequities and help some of the more vulnerable women and their families; (b) The Association supports the entire Economic Equity Act and particularly recommeds that the House Ways and Means Committee approve the following sections:

(1) Title I, displaced homemaker tax credit: Fifteen Junior Leagues have been included in projects which assist displaced homemakers, providing 166 volunteers and more than $535,000 as reported in the Association Project Summaries for 1981-82. The Association supports the proposal to provide tax credits to facilitate employment of displaced homemakers and urges the committee to approve these employment incentives.

(2) Title II, dependent care: The Association endorses each of the four provisions of Title II, particularly the proposed increase in the sliding scale for tax credits. With the increasing need for child care and the cutbacks in funding for child care services, many working mothers have little choice but to place their children in less than satisfying child care. The credit also would assist those with aged or handicapped dependents. We believe that the refundability provision would be helpful to the poorest families, who otherwise would not be able to receive the benefit of the credit.

(3) Title V, child support enforcement: Because 55 percent of women with children from an absent father receive no financial assistance from the absent father, the

child support enforcement provisions would appear to be essential to ensuring that parents assume their obligations and that children receive the support they need.

(4) Title I, spousal individual retirement accounts: The Association believes that spousal IRA's will remove an existing inequity in the tax laws and deserve the committee's support.

(5) Title I, head of household tax reform: The Association supports this provision because it would improve the economic status of women who are heads of households by granting them the same tax advantages as those provided to households which file joint income tax returns.

STATEMENT

I am Cynthia Brubaker, of Indialantic, Florida, a member of the Association of Junior Leagues' Public Policy Committee and a past president of the Junior League of South Brevard, Florida. In addition to my voluntary activities with the Junior Leagues, I am employed as Coordinator of the Parent Education Resource Center in Brevard County, Florida. For the last six years, I also have taught in a displaced homemaker program at Brevard Community College. I am pleased to be presenting testimony to the committee today in support of the Economic Equity Act and related legislation which addresses the problems of women, particularly those with low incomes. The Association of Junior Leagues is an international women's volunteer organization with 244 member Leagues in the United States, representing approximately 149,000 individual members. Junior Leagues promote the solution of community problems through voluntary citizen involvment, and train their members to be effective voluntary participants in their communities.

The Association of Junior Leagues is one of many national organizations supporting the Economic Equity Act of 1983. At the time this legislation was introduced, 25 national organizations had endorsed the Act. At present, 32 national organizations are supporting this legislation. We are pleased that 131 members of the House of Representatives and 32 Senators are co-sponsoring it.

As a women's organization, we are particularly interested in H.R. 2090. Junior League members are experiencing the same trends reflected in national statistics—that is, many of our members are working; more are having to combine work, child care, and family responsibilities. In addition, those Junior League members who are full-time homemakers also need the economic help of this legislation in planning for the future.

While we do not collect demographic information on all of our members, we do have some data from individual Junior Leagues which would appear to be representative. These data suggest that most Junior League members are married, have children, are college graduates. In addition to their volunteer and family commitments, a substantial number are employed. As of 1982, approximately 41 percent of the women joining the Junior League were employed part-time or full-time. This profile should make clear the reason for our interest in the many provisions of the Economic Equity Act.

It should be noted that the Association has been on record since 1981 with the following position statement on women's economic issues which was reaffirmed at the Association's Annual Conference May 15–18, 1983 in Dallas, Texas:

"The Association of Junior Leagues supports the goal of fair and equal economic opportunities for women and men and will advocate for the attainment of this goal."

Based on this position statement, we have supported a variety of legislative initiatives, including reforms in Social Security and the marriage tax reduction provisions included in the Economic Recovery Tax Act of 1981.

Broad trends necessitating the protections of the Economic Equity Act

Before discussing some of the individual provisions of the Economic Equity Act, we wish to call attention to some of the major trends affecting women in the United States. To mention a few:

Since 1970 the divorce rate has jumped from 47 to 109 divorces per 1,000 couples, and many divorced women are ill-prepared for the job market because they have not been in the labor force for many years.

More than 53 percent of all women are in the labor force.

Forty percent of the total work force are women, and women are projected to comprise 50 percent of the work force by 1990.

Only seven percent of all American families are the "traditional" family made up of a male worker, female homemaker and children; just five years ago 15 percent of all families could be described as "traditional."

The number of female-headed households has increased by 97 percent since 1970. The poverty rate among such families with children under 18 is 68 percent for blacks, 67 percent for Hispanics and 43 percent for whites.

The end result of these and other changes is an increasing incidence of poverty among female-headed families, an increasing percentage (47 percent) of young children (under six) whose mothers are working, and an increasing amount of stress for the mothers and children.

When one adds to these statistics the fact that the median income of women with a variety of different educational levels is substantially lower than that of males, the magnitude of women's problems is even more apparent. For example, the median income of college-educated women is approximately 75 percent of the medium income of high-school-educated men; the median income of high-school-educated women is 60 percent of the median income of high-school-educated men. These basic income inequities persist despite nearly 20 years of civil rights protections. Some observers deny the existence of inequities, calling attention to the fact that women traditionally leave the labor force for child-rearing and are thereby naturally competitively disadvantaged in the labor market. We do not accept this argument; for the great majority of women, regardless of their time in the work force, the problem of income inequity exists.

Income inequities and "feminization of poverty"

As a result of income inequities and other factors, over the past ten years the United States has experienced a rapidly accelerating incidence of poverty among women and their children. Rising divorce rates and insufficient family support after marital separation are contributing factors. When a woman who has been a full-time homemaker is divorced, separated, or deserted by her husband, she is often poorly equipped to compete in the labor market and unable to sustain the pre-separation standard of living enjoyed by the family. Women in such circumstances have at least three disadvantages which make them and their children more vulnerable to impoverishment:

(1) Having been out of the job market for some time, they may be unable to compete in an already tight job market and may have difficulty finding gainful employment without assistance such as the training and incentives for hiring provided by the displaced homemakers tax credit in the Economic Equity Act.

(2) If women seeking to reenter the job market are fortunate enough to find work, most will be confronted with low incomes; women as a group earn much lower salaries than men.

(3) Many women face an added problem of child care expenses, which further erode already insufficient incomes; such income erosion would be lessened by the increase in the dependent care tax credit proposed in the Economic Equity Act.

Because of these unsatisfactory circumstances, the Association of Junior Leagues supports the Economic Equity Act and related legislation which addresses the problems of women, particularly those with low incomes. While we support the entire Act, we are focusing our testimony on those provisions followed most closely by the Association and under consideration by this committee today.

Displaced homemakers

Junior Leagues have had a longstanding interest and involvement in the problems of women in transition in general, and displaced homemakers in particular. The following Junior Leagues have been involved in community projects which provide both financial assistance and volunteer support to displaced homemakers (both women and men) as reported in the Association's project summaries for 1981–82:

Junior league	Number of volunteers	Financial contribution
Billings, Mont	5	$20,000
Birmingham, Mich	3	42,732
Grand Rapids, Mich	5	22,000
Jackson, Miss	21	4,750
Lehigh Valley, Pa	13	1,600
Lincoln, Nebr	15	56,544
New York, N.Y	20	4,000
Omaha, Nebr	18	30,000
Orlando-Winter Park, Fla	5	51,000
Palm Beaches, Fla	16	104,000
Pasadena, Calif	13	45,000

Junior league	Number of volunteers	Financial contribution
Richmond, Va	11	$15,000
Topeka, Kans	4	59,000
Waco, Tex	7	67,000
York, Pa	10	12,400
Total	166	535,026

For example, the Junior League of Waco, Texas, has been involved in its Displaced Homemaker Project since 1979. The project's center, located on the campus of McLennan Community College, has a full-time director and two part-time counselors and makes extensive use of volunteers. The project, initiated in September, 1979, was designed to assist low-income mothers who are 35 years and older with no marketable job skills. It anticipated serving 50 clients in its first year; however, by March 1981, the center had counseled 500 individuals and had assisted 600 people in group workshops. Of the clients served, 100 were men. The center found that 65 percent of its clients had not completed high school or received the G.E.D.; 85 percent had not earned college degrees. In gathering data on the need to develop services for displaced homemakers, the Junior League of Waco discovered that 1300-1400 divorces were filed in McLennan County each year—a county with a population of 171,000.

In Billings, Montana, the Junior League has supported Women's Center, a facility at the YWCA which provides help for women who have been widowed, divorced, or separated. Counseling is provided around crisis situations and women are assisted in developing skills and obtaining jobs. Similar programs were assisted by Junior Leagues in Lehigh Valley, Pennsylvania; Omaha, Nebraska; Richmond, Virginia; and Topeka, Kansas.

In Florida, Women's Horizons, a project of the Junior League of the Palm Beaches, in cooperation with the YWCA and Palm Beach Junior College, has been operating for four years, providing individual counseling for women in transition, as well as courses and workshops. A profile of clients indicates that approximately 80 percent have low incomes. The project handled more than 2200 telephone requests for help in 1982, and provided 35 courses as well as individual counseling.

In 1979, the Junior League of Orlando-Winter Park, Florida, began the Job Internship Project in conjunction with the Displaced Homemaker Center at Valencia Community College. The purpose of the Job Internship Project is to help "hard-core unemployed women" move into the labor market. This program provides workshops in resume writing, interview skills, assertive communication, and stress management. It also works to create a public awareness of the problems of displaced homemakers and to help place women in jobs within the community. Since its inception, the program, has expended to provide services for hard-to-employ disadvantaged youth and displaced homemakers under age 35. As of January 31, 1983, there were 31 companies participating in the Job Internship Project and 68 of the project's clients had been placed in jobs.

Second national conference on displaced homemakers

Another effort in which the Junior Leagues have been involved in order to call attention to the needs of displaced homemakers was a national conference held October 21–23, 1982 in Pittsburgh, Pennsylvania. The conference was jointly sponsored by the Junior League of Pittsburgh and the Displaced Homemakers Network. Junior Leagues from 20 communities participated. Included in the recommendations which emerged from this conference was the suggestion that more should be done to publicize the problems of displaced homemakers. The conference also called for supportive legislation such as the tax credits proposed in the Economic Equity Act (one of the more useful ways of aiding displaced homemakers).

Recommendations regarding displaced homemaker legislation

Some argue that a tax credit for displaced homemakers is less necessary now that the Job Training Partnership Act (JTPA) is going into effect. We disagree. While the JTPA will provide some training opportunities for displaced homemakers, many other disadvantaged unemployed people will be competing for training and employment opportunities; and when we compare the limited resources of the JTPA with the more than 15 million unemployed and underemployed individuals in the United States, it becomes quite apparent that JTPA will not help all of the displaced homemakers who need to work to support their families. Further, the JTPA will help only with training.

We believe that tax credits would be useful as an incentive to hire displaced homemakers who still may need help in securing employment. For these reasons, the Association supports the proposal in the Economic Equity Act to provide tax credits to facilitiate employment of displaced homemakers. We are aware of the conerns about the cost of this proposal, but believe that the costs could be controlled by selective eligibility criteria designed to target the tax credit to those most in need.

We believe the following criteria for determining that a person is a displaced homemaker, as suggested by the Displaced Homemakers Network, Inc. would be useful: (1) a history of full-time homemaking; (2) five or more years out of the paid labor force; and (3) loss of primary support for the family due to separation, divorce, or the death or disablement of the principal wage earner, or termination of AFDC eligibility.

The issue of the cost of this proposed legislation is not merely how much is costs to help displaced homemakers become self-supporting, but how much we will all benefit if we help women and men at this time of crisis to create a positive future for themselves and their families. The cost that we as a nation really cannot afford is that of millions of women and their children living in desperate and hopeless circumstances.

Dependent care tax credits

Another provision of the Act which the Association strongly endorses is Title II, Dependent Care, particularly the proposals to increase the sliding scale of the dependent care credit and to make the credit refundable. As discussed earlier, more mothers are working and many of them are earning low wages. With the cutbacks in the Title XX Social Services Block Grant, there is less money available for publicly-provided day care, a fact documented by Child Watch, a citizen-monitoring project developed by the Children's Defense Fund in collaboration with the Association of Junior Leagues. The great majority of Child Watch projects conducted by Junior Leagues report a sharp reduction in the eligibility levels for Title XX day care. The inevitable result is that many working mothers have no choice other than to place their children in less that satisfactory child care situations.

Child care is one of the six focus areas of the Association's child advocacy program. In 1981-82, 19 Junior Leagues reported projects involving child care and 20 Junior Leagues reported public affairs activities involving child care. In 1981, the Association, in collaboration with The Johnson Foundation, held a conference, "Child Care: Options for the 80's," at the Wingspread Conference Center in Racine, Wisconsin. Affordability was identified as the number one issue on the Agenda for Action developed by the conference participants. The expansion of the sliding scale tax credit and the establishment of a refundable credit were identified as two key strategies to achieve affordability. The need to achieve affordability in order to provide equality of access to child care also figured prominetly in the discussions at the conference, "New Models for Child Daycare," co-sponsored April 28-29, 1983 in Boston by the Association, Wheelock College, the United Way of America, the Child Advocacy Project of the National Council of Churches, and the National Alliance of Business.

We believe that increasing the sliging scale from the current level of 30 percent to 50 percent for families with incomes of $10,000 and under would be of assistance in resolving the issue of affordability. As currently structured, a family with an income of $10,000 must pay 24 percent of gross income to receive the maximum credit of $720 allowed for one child. This is a difficult—perhaps impossible—burden for a family with that level of income. In addition, making the credit refundable would help those families with incomes too low to require the payment of income tax to receive the full benefit of the tax credit.

In considering the expansion of the sliding scale, it also is important to recognize the assistance that this legislation provides to persons caring for handicapped and aged dependents. Most of these caretakers, of course, are women. In fact, one in ten women between the ages of 45 and 65 is reported to have responsibility for an older relative. As a result of changes in the tax law in 1981, the tax credit now is available to persons whose dependents are placed in out of home care less than 24 hours a day. This financial assistance is vitally important to those attempting to care for their parents without resorting to full-time out of home care. Encouraging such alternatives to deinstitutionalization is also a priority of the Association. In 1982, the Association's Board of Directors voted to support legislation which would encourage and assist alternatives to institutionalization of the aging. The Board voted that such legislation should promote the following objectives: (a) Encourage the provision and use of services that offer care in the least restrictive environment; and, (b) assist families to care for their elderly or disabled relatives at home, e.g., by granting tax credits or deductions.

In addition, the Association's executive director serves on the Board of the National Council on the Aging, Inc., and as chairman of the National Voluntary Organization for Independent Living for the Aging (NVOILA). Assistance in providing for the care of dependents is, of course, vitally important to the older woman or displaced homemaker attempting to reenter the job market.

In addition, the provision in Title II to allow nonprofit organizations providing work-related child care eligibility for tax-exempt status appears to be an important component of the bill—especially for the encouragement of infant day care and afterschool programs.

Spousal individual retirement accounts

We also wish to call attention to the importance of spousal IRA's such as those contained in Title I which would remove existing inequities in the tax laws. Some argue against this provision because of its costs and because it would seem to favor middle and upper-income families. The following arguments can be made in support of spousal IRA's:

(1) In consideration of rising divorce rates, spousal IRA's would be helpful in providing future support for women who become displaced homemakers.

(2) It is inequitable to provide IRA's for persons who work outside of the home while ignoring the needs of those who work inside the home raising children and caring for families.

(3) Such a provision would provide a measure of economic security for volunteers who are not also employed for pay.

For these reasons, the Association believes the spousal IRA provision deserves this committee's support.

Head of household tax reform

The Association also supports the provision in Title I of the Act, tax and retirement matters, calling for revisions in the federal tax schedule to allow single heads of households the same zero bracket amount allowed for couples filing joint returns. The increasing number of female-headed households and the increasing liklihood that such families will be poor, as indicated earlier in this testimony, substantiates the need for such a provision.

As the National Federation of Business and Professional Women's Clubs, Inc. has argued:

"Current tax law reinforces the inferior economic status of women who maintain households . . . It is time to stop penalizing women trying to provide a decent, adequate standard of living for their families. Without changes in laws such as these, women who maintain households will continue to make up an increasing portion of those living in poverty."

We concur and urge this committee to pass the head of household tax reform.

In conclusion, we reiterate our support of the Economic Equity Act. It is our impression that both the Administration and the Congress want to redress inequities which make life more difficult for women and their children. We believe that the Economic Equity Act will remove some of thse inequities and do much to help some of the more vulnerable women and their families.

We urge this committee to lend its support to this important piece of legislation. Thank you for the opportunity to appear before you today.

Mrs. **KENNELLY**. Connie Mallett.

STATEMENT OF CONNIE MALLETT, INTERNATIONAL PRESIDENT, PARENTS WITHOUT PARTNERS, INC.

Ms. **MALLETT**. Thank you. I am Connie Mallett, international president of Parents Without Partners. We are a nonprofit, nonsectarian organization of 210,000 single parents belonging to about 1,100 chapters in all 50 States and Canada. We are the oldest and largest single parent organization in the world, and the only national organization that admits single parents of all types—both male and female, both custodial and noncustodial, separated, divorced, widowed, and never married.

Our members, and the millions of other single parents whose interests we share, would definitely benefit from H.R. 2126. This bill would raise the zero bracket amount, or standard deduction, for taxpayers filing as heads of households, most of whom are single parents.

In 1983, the dependents numbered 13.8 million, of which 12.3 million were children claimed under this category. The zero bracket amount would be raised from $2,300 a year, the same amount given a single parent, to $3,400 a year, the amount given married couples filing jointly. The zero bracket amount has nothing to do with the number of persons in the family, as each person already gets a $1,000 exemption. Rather, it has to do with marital status alone.

We believe that it is appropriate to raise the zero bracket amount for heads of households, not only because this group needs financial help, but also because we would like to see support for all of America's families, not just two-parent families.

The single parent has an advantage over the married couple with no children at very low income levels because a family with children is entitled to the earned income tax credit, while the married couple with no children is not. But this advantage disappears after $9,000 a year, when the single parent pays $42 more in taxes. At $20,000 a year, the single parent pays $459 more, simply because he or she is not married.

The single parent "penalty" is shown more clearly when we compare a three-person married family with a three-person single parent family. Here the earned income credit depends on gross income, not how many children are in the home. So that credit is the same for both families, even though the married couple family has two potential wage earners raising only one child, while the single parent family has only one wage earner raising two children.

Below $6,000 a year, each family receives an equal tax refund of $500. But at $6,000 a year and above, the single parent pays more, or receives a lesser credit. The refund is $87 less than the married family at $6,000 a year, while the three-person single parent family pays $449 more at an income of $20,000 a year.

We are looking at these incomes and families of two and three persons, because this is where most single parent families fall. Most single parents have only one or two children. Thirty-six percent of female heads of households are below the poverty line. But when female heads of households with minor children in the home are counted, 47.8 percent fall below poverty lines. About 20 percent of male custodial single parents fall below the poverty line, too.

But H.R. 2126 is not a poverty bill, and does not deal with the segment of our population that is not employed. Instead, it would relieve the hard-pressed working single parent who is struggling to maintain self-sufficiency. More than two-thirds of female single parents are in the labor force, while nearly all male single parents are in the labor force. According to the Bureau of Labor Statistics, 40 percent of female single parents who are in the labor force earn less than $10,000 a year. About 41.6 percent earn between $10,000 and $20,000 a year. About 9 percent earn between $20,000 and

$25,000. One-half of all male custodial single parents earn less than $21,000 a year.

These men and women must maintain a home, just as a married couple does. Because there is a child in that home, it is likely to be as expensive to maintain as that of a married couple family. In many localities, single parents are not allowed to rent living quarters unless they provide a separate bedroom for their children of each sex. A married couple family with no children can rent a one-bedroom apartment. A single parent with one child may be forced to rent a two-bedroom apartment. Both families are the same size, but the presence of a child creates an extra expense.

Most single parents cannot take advantage of the IRA plans, the Keogh plans, and other adjustments to gross income that could drop their tax liabilities. The latest break in regard to marital status, the two-earner couple deduction, is of no use to us.

According to the staff of the Joint Committee on Taxation, the effect of H.R. 2126 would be to return an average of $149 to about 5.4 million heads of households. The greatest amount of returned tax dollars, about 52 percent, would go to the group with an expanded annual income of between $10,000 and $20,000 a year. These single parents, who do not usually qualify for any kind of government benefits, would receive an average of $172 per return, for a total cost of $414 million in 1985. Heads of households earning below $10,000 a year would receive an average of $108 for a total cost of $239 million. Heads of households with incomes between $20,000 and $30,000 a year would receive an average of $234 for a total cost of $120 million.

Heads of households with higher income comprise about 5 percent of the tax returns, and would receive back average amounts ranging from $193 at $30,000 to $40,000 to $22 at $200,000 and above.

These amounts don't sound like a great deal of money to the individual head of household, but for most heads of households, anything helps. Finally, while we have pointed out that single parent families tend to be poor and struggling, we would also ask you to look at this issue in a different way. Rewarding married couple families with lowered tax liabilities sets a policy that says we support and believe in such families.

In 1981, the Government went one step further and instituted the two-earner tax deduction for married couple families where both partners work. This new deduction cost from $3.5 billion in 1982 to an estimated $14.3 billion, according to the Joint Committee on Taxation.

We would ask you to support all families, not just married couple families. The reality is that we are here. We comprised, in 1982, 24.6 percent of all American families with children. We are raising about 22 percent of America's children. This bill would cost from $0.6 billion in 1984 to $1 billion in 1986, a great deal less than the cost of the two-earner tax deduction.

We would use the same argument in discussing our position in relation to the single. While we feel sympathy for all groups whose tax position is negatively affected by marital status, we would point out again that we are families responsible for raising children. We have a difficult job to do, and we respectfully ask your help in creating tax policies that aid all families and children.

Thank you.

Mrs. KENNELLY. Thank you very much, Ms. Mallett, for the excellent testimony. It was outstanding.

[The prepared statement follows:]

STATEMENT OF CONNIE MALLETT, PRESIDENT, PARENTS WITHOUT PARTNERS, INC.

I am Connie Mallett, international president of Parents Without Partners, Inc. We are a nonprofit, nonsectarian organization of 210,000 single parents belonging to about 1100 chapters in all 50 states and Canada. We are the oldest and largest single parent organization in the world, and the only national organization that admits single parents of all types—both male and female—both custodial and noncustodial—separated, divorced, widowed, and never-married.

Our members, and the millions of other single parents whose interests we share, would definitely benefit from H.R. 2126. This bill would raise the zero bracket amount, or standard deduction, for taxpayers filing as Heads of Households, most of whom are single parents. The zero bracket amount would be raised from $2,300 a year, the same amount given a single person, to $3,400 a year, the amount given married couples filing jointly. The zero bracket amount has nothing to do with the numbers of persons in the family, as each person already gets a $1000 exemption. Rather, it has to do with marital status alone.

We believe that it is appropriate to raise the zero bracket amount for Heads of Households, not only because this group needs financial help, but also because we would like to see support for all of America's families—not just two-parent families.

THE HEAD OF HOUSEHOLD CATEGORY

To qualify as a Head of Household for tax purposes, you must be single or separated, maintaining a home for a child, grandchild, foster child, step-child, or a parent or other relative who is a dependent. Most people in this category do claim their children as dependents. In 1981, 8.4 million taxpayers filed as Heads of Household. About 7.8 million claimed dependents, 7.1 claiming dependents who were their children at home. (The .7 million taxpayers without dependents are usually those who have given up the dependency exemption to an ex-spouse, but still maintained the home for the children.) The dependents themselves numbered 13.8 million, 12.3 million of whom were children.

The zero bracket amount of $2,300 allowed for Heads of Households is the same as for a single person, but the tax rate falls between that for a single taxpayer and that for a married couple. The rate and the fact that a single parent will usually be claiming an exemption for a child provides an advantage over the single. But the Head of Household ends up paying more in taxes than a married couple family, even when the numbers of the household number the same.

We compared the differences between taxes due for a married couple family and a single parent family of equal size, taking into account personal exemptions and the Earned Income Credit, when applicable. When we compare the single parent with one child—two exemptions—with a married couple with no children—two exemptions, and when we compare the single parent with two children—three exemptions—with the married couple with one child—three exemptions, we find that the single parent pays more beginning with about $9000 a year for two-person families, and $6000 a year for three person families.

The single parent has an advantage over the married couple with no children at very low income levels because a family with children is entitled to the Earned Income Tax Credit, while the married couple with no children is not. But this advantage disappears after $9000 a year, when the single parent pays $42 more in taxes. At $20,000 a year, the single parent pays $495 more, simply because he or she is not married.

The single parent "penalty" is shown more clearly when we compare a three-person married family with a three-person single parent family. Here the Earned Income Credit applied to both families, because there were children in the home. The Earned Income Credit, however, depends on gross income, not how many children are in the home. So that Credit is the same for both families, even thought the married couple family has two potential wage-earners raising only one child, while the single parent family has only one wage-earner raising two children.

Below $6,000 a year, each family receives an equal tax refund of $500. But at $6,000 a year and above, the single parent pays more, or receives a lesser credit. The refund is $87 less than the married family at $6,000 a year, while the three-person single parent family pays $449 more at an income of $20,000 a year.

SINGLE PARENT INCOMES

We are looking at these incomes, and families of two and three persons, because this is where most single parent families fall. Most single parents have only one or two children. As those of you already familiar with poverty statistics know, our families comprise about half of the poverty population. Recent poverty statistics showed 36 percent of female heads of houshold are below the poverty line. But when female heads of household with minor children in the home are counted, the Census Bureau says, 47.8 percent fall below poverty lines. About 20 percent of male custodial single parents fall below the poverty line.

But H.R. 2126 is not a poverty bill, and does not deal with the segment of our population that is not employed. Instead, it would relieve the hard-pressed working single parent who is struggling to maintain self-sufficiency. More than two-thirds of female single parents are in the labor force, while nearly all male single parents are in the labor force. According to the Bureau of Labor Statistics, 40 percent of female single parents who are in the labor force earn less than $10,000 a year. About 41.6 percent earn between $10,000 and $20,000 a year. About 9 percent earn between $20,000 and $25,000, while the remaining 9.5 percent earn over $25,000, most in the lower range. One-half of all male custodial single parents earn less than $21,000 a year.

These men and women must maintain a home, just as a married couple does. Because there is a child in that home, it is likely to be as expensive to maintain as that of a married couple family. In many localities, single parents are not allowed to rent living quarters unless they provide a separate bedroom for their children of each sex. A married couple family with no children can rent a one-bedroom apartment. A single parent with one child may be forced to rent a two-bedroom apartment. Both families are the same size, but the presence of a child creates an extra expense. We do not need to elaborate on the costs of providing for a child—the nutritious food, the immunizations and health care, the sneakers of ever-increasing size. The single parent who works—and we are talking mainly about workers here-must pay for child care. The married couple family has a choice in either one parent staying with the children, or bringing in a second income that will cover child care. The single parent's income must cover everything.

Most single parents cannot take advantage of the IRA plans, the Keogh plans, and other adjustments to gross income that could drop their tax liabilities. The latest break in regard to marital status, the two-earner couple deduction, is of no use to us.

According to the staff of the Joint Committee on Taxation, the effect of H.R. 2126 would be to return an average of $149 to about 5.4 million heads of households. The greatest amount of returned tax dollars, about 52 percent, would go to the group with an expanded annual income of between $10,000 and $20,000 a year. These single parents, who do not usually qualify for any kind of government benefits, would receive an average of $172 per return, for a total cost of $414 million in 1985. Heads of households earning below $10,000 a year would receive an average of $108 for a total cost of $239 million. Heads of households with incomes between $20,000 and $30,000 a year would receive an average of $234 for a total cost of $120 million. Heads of households with higher incomes comprise about 5 percent of the tax returns, and would receive back average amounts ranging from $193 at $30,000–40,000 to $22 at $200,000 and above.

EQUITY FOR SINGLE PARENT FAMILIES

These amounts don't sound like a great deal of money to the individual head of household, but for most heads of household, anything helps. Finally, while we have pointed out that single parent families tend to be poor and struggling, we would also ask you to look at this issue in a different way. Rewarding married couple families with lowered tax liabilities sets a policy that says we support and believe in such families. In 1981, we went one step further and instituted the two-earner tax deduction for married couple families where both partners work. This new deduction cost from $3.5 billion in 1982 to an estimated $14.3 billion in 1985, according to the Joint Committee on Taxation.

We would ask you to support all families, not just married couple families. The reality is that we are here. We comprised, in 1982, 24.6 percent of all American families with children. We are raising about 22 percent of America's children. This bill would cost from $.6 billion in 1984 to $1 billion in 1986, a great deal less than the cost of the two-earner tax deduction, and frankly, we need it more.

We would use the same argument in discussing our position in relation to the single. While we feel sympathy for all groups whose tax position is negatively affected by marital status, we would point out again that we are families responsible for raising children. We have a difficult job to do, and we respectfully ask your help in creating tax policies that aid all families and children.

TABLE 1.—COMPARISON OF TAXES DUE FROM MARRIED FILING JOINTLY AND HEADS OF HOUSEHOLDS WITH 2 EXEMPTIONS

[Amounts in dollars]

Adjusted gross income	After exemptions	Married couple	Single parent, 1 child	Single parents pay this much more
5,000	3,000	0	(87–500) [1] 413	−413
6,000	4,000	75	(207–497) [1] 290	−365
7,000	5,000	195	(340–372) [1] 32	−227
8,000	6,000	326	(480–247) 233	−93
9,000	7,000	466	(630–122) 508	42
10,000	8,000	614	790	176
11,000	9,000	774	963	187
12,000	10,000	934	1,163	229
13,000	11,000	1,094	1,363	269
14,000	12,000	1,258	1,568	310
15,000	13,000	1,448	1,788	340
16,000	14,000	1,639	2,008	370
17,000	15,000	1,828	2,228	400
18,000	16,000	2,019	2,458	439
19,000	17,000	2,239	2688	449
20,000	18,000	2,459	2,918	459

[1] Amount of refund.

TABLE 2.—COMPARISON OF TAXES DUE FROM MARRIED FILING JOINTLY AND HEADS OF HOUSEHOLDS WITH 3 EXEMPTIONS

[Amounts in dollars]

Adjusted gross income	After exemptions	Married couple, 1 child	Single parent, 2 children	Single parents pay this much more
5,000	2,000	(0–500) [1] 500	(0–500) [1] 500	0
6,000	3,000	(0–497) [1] 497	(87–497) [1] 410	87
7,000	4,000	(75–372) [1] 297	(207–372) [1] 165	132
8,000	5,000	(195–347) [1] 52	(340–247) 93	145
9,000	6,000	(326–122) 204	(480–122) 358	154
10,000	7,000	466	630	164
11,000	8,000	614	790	176
12,000	9,000	774	963	187
13,000	10,000	934	1,163	229
14,000	11,000	1,094	1,363	269
15,000	12,000	1,258	1,568	310
16,000	13,000	1,448	1,788	340
17,000	14,000	1,639	2,008	370
18,000	15,000	1,828	2,228	400
19,000	16,000	2,019	2,458	439
20,000	17,000	2,239	2,688	449

[1] Amount of refund.

Mrs. KENNELLY. I don't have any questions at this point. Mr. Conable.

Mr. **Conable**. I don't have any questions either.

Thank you very much for your testimony and I appreciate also your patience in waiting so long today.

Ms. **Mallett**. Thank you.

Mrs. **Kennelly**. Thank you very much for coming.

The committee will adjourn to the call of the chair.

[Whereupon, at 3:37 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

STATEMENT OF THE SECTION OF TAXATION, AMERICAN BAR ASSOCIATION

The Section of Taxation of the American Bar Association submits its views with regard to those provisions of H.R. 2090 which relate to assignment and distribution of retirement plan interests in marital dissolutions. These views represent only the position of the Section of Taxation and should not be construed as representing the position of the American Bar Association. The recommendations are consistent with and build upon previously adopted ABA policy that all deferred compensation derived from any employment be subject to state property law, except as specifically exempted by explicit federal legislation.

In 1980 the Tax Section appointed a Task Force to study various areas of domestic relations tax laws, including the treatment of retirement plan interest in divorce. In connection with this project, the Task Force and a Subcommittee of the Section's Employee Benefits Committee have prepared a "Supplemental Report on the Retirement Plan Area" (November 3, 1982), a copy of which is attached. Specific comments about the retirement plan provisions of H.R. 2090 which follow are consistent with the "Supplemental Report".

The Section of Taxation believes there is an obvious need for a clear policy statement from Congress regarding the assignment of interests in retirement plans at the time of divorce. The Section recommends that Congress establish a federal policy sanctioning assignments of interests in retirement plans in divorce which would provide wide parameters within which state law, state courts, and divorcing couples would have considerable flexibility. Federal law should unequivocally preempt state law which exceed federally established limits, so that court orders exceeding the federal standards would be wholly unenforceable.

A hallmark of many divorce court orders in the retirement plan area is their total unworkability under the terms of the governing plan instruments. New federal law should overcome this problem as much as possible. The procedure for assignment of plan interests should minimize additional burdens on retirement plan administrators.

Any new federal legislation should not inadvertently serve as an economic incentive for divorce. Generally, parties ought not be able to accelerate payment of a benefit as a result of divorce. Plans also should not pay larger aggregate benefits after a divorce as a result of federal law. The Tax Section also recommends that federal law spell out the federal tax rules applicable to both parties in the context of "dividing up" plan benefits. A "transfer" of an interest in a retirement plan to a non-employee spouse at the time of divorce should be a nonrecognition event in all circumstances. Moreover, the non-employee spouse should be treated as if he or she is a participant in the plan for essentially all other aspects of federal tax treatment of payments of benefits. Correspondingly, there should be an exclusion for the employee spouse for payments made to the non-employee spouse. If a plan interest entails a tax basis, the basis should be allocated in a pro-rata manner.

SPECIFIC COMMENTS ON H.R. 2090

Section 102 would treat alimony as compensation for purposes of IRA contributions. The Tax Section takes no position on this proposal and suggests it be considered in connection with overall domestic relations tax reform legislation.

Section 103(a)(1)(C)(ii) and Section 103(b)(1)(C)(ii) provide that the participant's spouse at the annuity starting date must receive any survivor benefits, even if there is an intervening divorce. This rule does not allow parties to make other arrangements in an overall divorce settlement. The Section believes flexibility for parties who make informed decisions is an important part of tax law simplification. This provision does not provide that flexibility. An appropriate rule could balance protection for divorced non-employee spouses with the necessary flexibility for spouses who voluntarily choose a different distribution method.

Section 104 would permit the assignment of benefits pursuant to an appropriate judgment, decree or order. In general, the Tax Section supports the elimination of the prohibition on assignments in this area. However, the Tax Section recommends that additional provisions be considered which would provide specific guidelines for the determination of the maximum accrued benefits subject to assignment, the taxation of distributions, and other important considerations as set forth in the specific recommendations of the attached Task Force Report.

The statute should provide specifically the amount of accrued and vested benefits available for division in a divorce. Every effort should be made to prevent a plan administrator from becoming a referee about retirement benefits in a marital dissolution. The legislation should state the options for payments that are available to the non-employee spouse. A non-employee should be treated in the same manner as the participant for all tax purposes.

Section 105 would exempt state domestic relations law from ERISA preemption as to qualifying orders. The Tax Section supports this proposal.

Section 109 would amend the Civil Service retirement program to provide for greater benefits and protection to spouses, including spouses at the time of divorce. The Tax Section does not have a position on these proposals.

Section 111 would increase the zero bracket amount for taxpayers using head of household status. The Tax Section recommends that this proposal be considered in conjunction with overall domestic relations tax reform legislation.

Title V deals with child support enforcement. The Tax Section does not have a position on these proposals.

CONCLUSION

It is the view of the Section of Taxation that the tax problems presented in connection with retirement plans in the divorce context are acute, and that Congressional action is essential if satisfactory solutions are to be achieved. In general, various proposals in H.R. 2090 point in the direction of such solutions; and, as indicated above, the Section supports many of these proposals, subject to certain recommendations primarily intended to provide further clarification.

PRELIMINARY SPECIFICATIONS FOR SIMPLIFICATION OF DOMESTIC RELATIONS TAX LAW—ABA SECTION OF TAXATION

INTRODUCTION

At two meetings on October 8, 1982, between staff members of the House Ways and Means and Senate Finance Committees and representatives of the ABA Section of Taxation and AICPA Tax Division, various aspects of the proposals contained in a Report and Technical Memorandum, entitled "Preliminary Specifications for Simplification of Domestic Relations Tax Law" (prepared by a Task Force of the ABA Section of Taxation), were considered. Apart from the specific recommendations advanced in the foregoing documents, the Task Force reserved the retirement plan area for further consideration in light of the myriad problems arising in such area in the divorce context. Subsequent to finalization of the Report and Technical Memorandum in 1981, the Task Force has been working with the Tax Section's Employee Benefits Committee in further study of the retirement plan area but had not yet reached final conclusions. Under the circumstances, at the October 8, 1982 meeting, the government officials requested the Task Force to finalize a report in this area for consideration along with basic Report and Technical Memorandum.

Pursuant to this request, the Task Force and an Ad Hoc Subcommittee of the Employee Benefits Committee have prepared this Supplemental Report. The views set forth herein reflect the thinking of the members of the Task Force, as well as the Ad Hoc Subcommittee; and, in addition, such views appear to be consistent with the general views expressed by Committee and Subcommittee officers of the Employee Benefits Committee in a telephone canvas conducted over the October 27th–November 2nd period. Of necessity, the summary set forth below is general, reflects tentative thinking, and is intended solely as a springboard for further discussion.

GENERAL BACKGROUND AND MAJOR POLICY PARAMETERS

In recent years, Section 206(d)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA") and Section 401(a)(13) of the Internal Revenue Code, on the one hand, and state divorce courts, on the other hand, appear to have been on a collision course. The foregoing statutory provisions provide that benefits under qualified plans may not be assigned or alienated. Most state courts, however, have held that such benefits, in whole or in part, constitute "martial property," over which the courts have jurisdiction to divide in some fashion, pursuant to court order. The result has been confusion for all parties concerned, as well as the fact that many state court orders against retirement plans present a plethora of technical legal issues that are unresolved by existing authorities. Further, in many cases, plans are not parties to proceedings and are directed to comply with orders on which they have had no input.

In light of the significance of interests in retirement plans in the divorce context today, the problem presented are acute ones. Moreover, in the view of the Task Force and the Ad Hoc Subcommittee, satisfactory solutions to most of the problems are likely to be attained only by Congressional action.

In considering the issues presented, the Task Force and Ad Hoc Subcommittee have arrived at a suggested summary of basic policy principles. More specific suggestions, as set out below, are intended to be consistent with the following policy parameters:

A. Coordination with other domestic relations tax simplification proposals.—A simplification bill that addresses all problems set out in the Task Force's basic Report and Technical Memorandum, as well as this Supplemental Report, would be the optimal result. Nevertheless, if for any reason it is concluded that proposals in the retirement plan area should be deferred, the Task Force strongly recommends development and introduction of a bill dealing with the areas covered in the basic Report and Technical Memorandum.

B. The basic policy issues as to alienation.—There are various countervailing contentions as to whether assignments of interests in retirement plans, in whole or in part, should be sanctioned by the Code and Title I. In the view of the Task Force and the Ad Hoc Subcommittee, the overriding need is for a clear statement of policy from Congress. In this regard, if it is determined that some degree of assignability or alienability is appropriate, the Task Force and the Ad Hoc Subcommittee recommend consideration of the various points set out in this Supplemental Report.

C. Interplay of Federal and State law.—Federal law should interfere with state law as little as possible. It is recommended that Congress establish a federal policy sanctioning assignments of some interests in retirement plans in the divorce context, but it is urged that the federal scheme constitute an "outer boundary," within which state law, state courts, and divorcing couples would have considerable flexibility. Beyond such an "outer boundary," however, federal law should unequivocally pre-empt local law, so as to make clear that court orders exceeding the federal standards would be wholly unenforceable.

D. Ease of administration of new rules.—New federal law in this area should be formulated so as to minimize the additional burdens on retirement plan administrators to the maximum feasible extent. In particular, a hallmark of many court orders in this area today is their total unworkability under the terms of the governing plan instruments, and the objective of new federal law should be to overcome this problem as much as possible.

E. Neutrality.—A new federal enactment should be developed so as to not inadvertently serve as an economic incentive for divorce. Generally, parties should not be able to accelerate payments of a benefit as a result of divorce; and plans should not pay larger aggregate benefits as a result of the new federal provisions.

F. Clarification of Federal tax treatment.—New federal rules should spell out the federal tax rules applicable to both parties in the context of "dividing up" plan benefits. In general, a "transfer" of an interest in a retirement plan to a non-employee spouse at the time of divorce should be a non-recognition event, never a so-called "*Davis*" exchange." (This non-recognition rule should apply even if the "election out" feature of the proposed property division rules is adopted. See Appendix III, Technical Memorandum.) Moreover, the non-employee spouse should be treated as if he or she were a participant in the plan for essentially all other aspects of federal tax treatment of payments of benefits to him or her. Correspondingly, there should be an exclusion for the employee spouse for such payments; and, if a plan interest entails a basis, it should be allocated on a pro-rata basis.

SPECIFIC RECOMMENDATIONS

In connection with the above basic policy principles, the Task Force and Ad Hoc Subcommittee have considered many ramifications of the basic proposal contained herein and suggest consideration of the following specific points. Some of these relate to both defined contribution and defined benefit plans; whereas other points relate to only one or the other type of plan.

A. General considerations

1. Maximum divisible benefit: The maximum amount of a benefit that should be divisiable by a court or the parties should be the accrued benefit in the case of a defined benefit plan or the account balance in the case of a defined contribution plan as of the date of divorce, as if such a date were the date of termination or retirement of the employee spouse.

2. Vesting: Non-vested interests of an employee spouse at the time of divorce should not be divisible by a court or the parties at such time. However, in the case of an accrued benefit or account balance that is wholly or partially non-vested at the time of divorce, the court or the parties should be free to reserve the matter of allocating the retirement plan interest to a future date at which time the employee spouse would be fully or more completely vested.

3. Form of Benefit for non-employee spouse: A non-employee spouse should be allocated a benefit solely in the form of a benefit already permitted by the plan. In other words, new federal rules should not entail any mandatory change in the form of benefits solely to accomodate payments of benefits to non-employee spouses.

4. Notice of plans: Strict notification requirements should be imposed on participants and their spouses to provide necessary information to plan administrators, including data on addresses and name changes. Non-compliance with such requirements should exonerate plans from liability for errors in the payment of benefits.

5. Disclosure: In general, plans should not have to make standard disclosures to nonemployees, such as sending them copies of annual reports or summary plan descriptions. Plans should be required to give special notice to non-employee spouses in certain defined situations, such as notice of the date as to which the employee spouse has applied for benefits.

6. Expenses and legal fees: To a reasonable degree, plans should be permitted to bill participants directly or to charge the appropriate account within the plan for various types of expenses incurred, including attorneys fees in some cases which the plan has incurred as a result of the divorce. Moreover, other participants in a plan should not be made to indirectly bear the legal costs of a particularly litigious divorce.

7. Expanded role for the §408(d)(6) IRA: As indicated below, the proposals herein contemplate an expanded role for an individual retirement account (IRA) under Section 408(d)(6) of the Code. In many cases, a benefit allocated to a non-employee spouse could, in whole or in part, be rolled-over to an IRA, with such non-employee spouse thereafter subject to the IRA rules.

8. Binding election of option: Parties or a court should have the right to require the participant party to make a binding election as to a particular benefit option. For example, if under a defined benefit plan the only benefit available is in the form of a single life annuity, with or without a "ten-year certain," parties or a court should be free to bind the participant to opt for the ten-year certain feature, subject to amendment only by the parties or the court.

9. Possible "dual" system: Although most recommendations herein draw little distinction between division of a retirement plan interest by a divorce court and such a division by the parties (via a written agreement), consideration might be given to two sets of rules, somewhat analogous to the dual approach proposed in the basic Report and Technical Memorandum for the Section 71 rules—i.e., the dual approach based on the "fall-back" rules and the more flexible "private ordering" rules. In short, more latitude relative to divisibility might be accorded parties via written agreement than would be available to the divorce court. For example, as noted above, it is suggested that the new rules allow a court in an appropriate case to reserve adjudication of a division of a non-vested retirement plan interest until such time that it is vested. Correspondingly, the new rules might allow the parties, solely by written agreement, to make an allocation of an accrued but non-vested interest as of the date of the divorce, but with the actual amount of the benefit allocated to the non-employee spouse to be determined when the employee spouse's final vesting percentage is set.

10. Possible fifty percent rule: Consideration might be given to establishing a so-called "50 percent rule," under which in all events no benefit greater than 50 percent of the accrued benefit for the employee spouse at the time of divorce could be allocated to the non-employee spouse. Such a rule might be consistent with the basic policy objective in the retirement plan area of providing for retirement benefits for participants. Such a rule, however, would be inconsistent with a major objective of various proposals set out herein—i.e., according parties the maximum flexibility in working out their settlement. On this issue, the Task Force and the Ad Hoc Subcommittee have not reached a consensus.

B. Specific recommendations for defined contribution plans

1. Plans allowing in-service withdrawals: With regard to such plans, lump-sum distributions to the non-employee spouse at his or her option should be permissible, with such spouse having the right to roll-over the distribution in whole or in part to an IRA. Whatever portion of the distribution that is not rolled-over to an IRA would be taxed to the non-employee spouse as ordinary income, to the extent such portion exceeds basis.

2. Plans that do not allow in-service withdrawals but do provide for lump-sum distributions: Such a plan should be permitted to make a lump-sum distribution for the non-employee spouse. If the plan makes the distribution prior to the participant spouse's termination or retirement date, the distribution should go directly to the trustee or custodian of an IRA, not to the non-employee spouse. If the plan opts to not make an early distribution for the benefit of the non-employee spouse, it should establish a separate account balance for the benefit of such spouse, and at the time of the participant's termination or retirement, make a lump-sum distribution to the non-employee. The non-employee spouse would have the right to roll-over the distribution in whole or in part to an IRA. Whatever portion of the distribution that is not rolled over to the IRA would be taxed to the non-employee spouse as ordinary income.

3. Plans that do not allow in-service withdrawals and do not provide for lump-sum distributions: Such plans should be permitted under the Code to nevertheless make a lump-sum distribution to the non-employee spouse at the time of divorce or at the time of the participant's termination or retirement, if the plan chooses to "cash-out" the non-employee. If the plan does not opt for a lump-sum distribution, a separate account should be established for the non-employee spouse and paid to the non-employee spouse in accordance with the terms of the plan. Unlike the case of the defined benefit plan, since a separate account is established, utilization of the non-employee's life expectancy for benefit purposes would probably pose few problems.

C. Specific recommendations for defined benefit plans

1. Benefit to non-employee spouse: As indicated above, the determination of the benefit for the non-employee spouse, as well as the value thereof should be with reference to the benefit that would have been available to the participant if his or her termination or retirement date had been the date of the divorce. Moreover, the benefit to the non-employee should be paid or start to be paid only when the benefit for the employee is otherwise in pay status, except that a plan should have some flexibility to "cash-out" a non-employee spouse if it chooses to do so. Aside from a "cash-out" situation, a benefit for a non-employee spouse should be payable in terms of a distribution option otherwise available to a participant under the plan. Generally, the non-employee's life expectancy should not be taken into account.

2. Certain terms of the court order or agreement: In general, the language of the decree or written agreement incident to the decree providing for the allocation of a benefit to the non-employee spouse should be required to define such allocated benefit with particularity, probably in terms of a specific dollar amount or a specific percentage with reference to the value of the benefit as of the date of divorce.

OTHER RAMIFICATIONS

A. Title I.—Certain provisions of ERISA's labor title would be affected if some or all of the proposals in this Supplemental Report are adopted, especially the provisions on alienability and assignability. Plan administrators and plans, of course, should be protected under the labor title, as well as the Code, if they comply with court orders or marital settlement agreements incident to court orders that are within the scope of the new federal law in this area.

B. Other plans.—The federal interest in plans that do not qualify for favorable tax treatment is substantially less than for qualified plans, and the Task Force and Ad Hoc Subcommittee do not perceive compelling reasons at this time for developing rules respecting non-qualified plans. As to certain other retirement programs (such as military and Civil Service retirement and possibly Social Security and unemployment insurance), various questions have arisen. Because such questions are not principally tax issues, the Task Force and Ad Hoc Subcommittee believe they are beyond the scope of this Supplemental Report and, at this time, submit no recommendations on them.

C. Comments on other legislation.—In connection with this project, the Task Force and Ad Hoc Subcommittee have reviewed two pieces of pending legislation—i.e., H.R. 4330 and H.R. 4334, introduced by Rep. John Erlenborn. The recommendations set out herein expand beyond the changes proposed in these bills; but, in the view of the Task Force and Ad Hoc Subcommittee, the basic objective of these bills and the objectives of this Supplemental Report are generally consistent.

CONCLUSION

As indicated above, the Task Force and Ad Hoc Subcommittee believe that an optimal "Domestic Relations Tax Reform Act" would include treatment of the serious problems that exist in the retirement plan area, as well as the areas covered in the Task Force's basic Report and Technical Memoradum. The overriding need is for broad, comprehensive statutory changes in the domestic relations area, as opposed to piecemeal ones. As stated in the Technical Memorandum, this perspective has been uppermost in the minds of the various members of the ABA Section of Taxation who have worked on this project.

ABA Domestic Relations Tax Simplification Task Force: David H. Hopkins, Coordinator; Berneice A. Anglea; Steven D. Kittrell; Marjorie A. O'Connell; Gary C. Randall; Frank E. A. Sander; Thomas R. White, III; J. Nelson Young; Michael J. Graetz (Liaison with Tax Section Simplication Committee).

Ad Hoc Subcommittee, ABA Employee Benefits Committee: David L. Heald, Chairman, William L. Sollee, Ex Officio; Theodore D. Bower; Richard L. Menson; and Roger C. Siske.

STATEMENT OF HON. BARBARA BOXER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman and committee members, thank you for the opportunity to speak in favor of HR 2090, the Economic Equity Act. The bills before you today represent a foundation of equality in this country—economic security.

Public policy of the last decade has recognized the differing and often discriminatory laws affecting women, and has attempted to remedy this situation. Clearly, the American economic system affects men and women differently. Women who work outside the home are more likely than men to adjust to family duties; as a result, women are more likely than men to move in and out of the workforce, and/or to work part-time in low-paying jobs that lack such fringe benefits as health benefits as health insurance and pension coverage. These employment patterns militate against women's ability to provide economic security for themselves. In short, women are much more likely than men to depend—and to have been encouraged to depend—mostly or entirely on their spouses for economic security.

The Economic Equity Act offers unique solutions to the economic problems facing American women. The EEA recognizes that the time honored solution to male poverty—more jobs—does not always address the economic needs of women. Rather the EEA proposes changes and additions to present law in tax, pension and dependent care areas.

The Economic Equity Act would provide tax credits to employers who hire displaced homemakers, make the tax rate for single heads of households and married couples the same, and recognize the need for dependent care though increased tax credits and tax-exempt status for eligible families.

The Economic Equity Act is supported by over 30 diverse national organizations including: American Association of University Women, Association of Junior Leagues, Girl Scouts of America, National Council of Negro Women, National Education Association, and women's organizations of both the Democratic and Republican parties.

I am proud to join my 130 colleagues in the House in cosponsoring this important package of legislation. I urge your favorable consideration.

STATEMENT OF GENEVA BURGESS, GLENN BURNIE, MD.

Mr. Chairman, my name is Geneva Burgess and I am pleased to be here today to speak before the House Ways and Means Committee. I feel it is an honor and my duty as an American citizen to speak on behalf of myself and thousands of other women across the country who are victims of an unjust pension system. I hope my story has some impact in changing the law so that other women will not have to suffer in the same way I did.

The last two years have been an education which no one could have gotten by attending any school or university. Nothing could have prepared me for what I now must endure. The first devastating blow was finding my husband, Frank, dead on the floor of a heart attack. The second blow hit while grieving the loss of my husband. I found out that after over 30 years of being married, standing by him, taking care of the home and raising two children, I would not get a dime of my husband Frank's pension. Even though Frank had been a dedicated employee at the A&P warehouse for longer than 30 years—our entire married life—I found out that I wasn't eligible to get widow's benefits that I feel I earned too.

This is dreadfully unfair. My husband and I talked about retirement and we both assumed I would get something from the pension plan if he died first. But when I asked about getting widow's benefits from my husband's pension plan, A&P told me I couldn't get them. Since my husband died at age 50, instead of 55, I wasn't eligible to get any of his benefits that he worked so hard to earn. I was told by the company that he'd have to reach early retirement age—in this case 55—to get some of those benefits. So, after all this time, I ended up with just life insurance equal to about nine months of Frank's pay which was used up within 6 months of his death—it went to pay funeral costs and other expenses.

I really don't understand why the pension law allows this to happen. There is no question my husband worked long enough under the plan to earn a right to a pension at retirement. I remember Frank going to union meetings and discussing pension and other benefits. It was very clear that the workers got pension benefits in lieu of salary. Basically, all those years sweating in the warehouse, he was getting a lower salary so he could get a pension to carry me and him through retirement. I know Frank would be outraged now if he knew his 30 years plus of earned benefits would go down the drain. He always thought his wife and children would be adequately cared for.

Believe it or not, I still shop at A&P and about a week ago I bumped into Corrinne Setherly, the wife of one of Frank's co-workers from the warehouse. She asked me how I was doing. When I told her the truth, that I was only getting by on meager savings, she said, "You'll get some of Frank's pension, won't you?" When I told her I wouldn't get a cent she didn't believe me. Corrinne told me that her husband assured her she'd be covered under his plan. He's only 54 and won't be 55 until October. Ironically, I just heard that Corrinne's husband had a massive heart attack. It's uncertain whether he'll make it or not.

Mr. Chairman, it's probably too late for me. But it's not too late for my friend Corrinne or for Pat Tice, sitting next to me, or for thousands of other women who may lose out this year or the next. I ask for their sake for you to change the law. These women count on their husbands' pensions to get by and I think it is only fair that they have a chance to get widows benefits no matter when their husbands die. Thank you for giving me this opportunity to speak today.

STATEMENT OF HON. ROD CHANDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. Chairman I would like to submit my remarks regarding several provisions of the Economic Equity Act of 1983.

Three-quarters of our elderly poor are women. This is a staggering percentage which is directly related, at least in part, to our pension laws and to our seeming unwillingness to take into account women's unique work patterns. It's time that we take immediate action to remedy some of these problems and to update laws to reflect the present circumstances that women are now facing at home as well as in the workplace.

Women are greatly disadvantaged in the area of retirement and pensions. My home state of Washington is a community property state in which homemakers, although not salaried, in divorce settlements are entitled to community property, or to one-half of the family holdings. In my family I consider the role my wife plays in the running of our household to be equally as important as the role I play and we both are appreciative of the others contribution. Marriage should be looked upon as an economic partnership regardless of whether each spouse is a salaried worker outside the home. For this and other reasons I am very supportive of many of the reforms that are being developed today to improve the economic position of women.

The extension of the use of Individual Retirement Accounts to allow individuals to compute the deduction for retirement savings on the basis of the compensation of their spouses and to treat alimony as compensation for purposes of such deduction would have a significant positive impact on women and is a reform which I strongly support. This would be extremely important to homemakers with insufficient earnings histories to qualify for Social Security or who are without an accrued pension or survivor benefit.

There are many critical reforms that are being considered in the area of private pensions which are vital to the economic well-being of women in their retirement years. The highest percentage of women participating in the work force takes place when women are between the ages of 18 and 25. After which time, frequently they take time out to begin a family. Correspondingly, due to the requirements of childbearing and rearing, women are much more likely than their male counterparts to take breaks-in-service. Unfortunately, due to current laws, women are at a particular disadvantage because of these patterns. Reducing the minimum age for pension plan participation from 25 to 21 would be a big step toward correcting this problem. Protection against breaks-in-service during periods of maternity/paternity leave is also very important. These reforms will enable working women to provide for their retirement while at the same time they can fulfill their family goals.

All too frequently widows are left with nothing from a pension and had no idea that their spouse had opted against survivor benefits or even if he had opted for survivor benefits she did not realize that if he died before the early retirement age she would receive no benefits. These are serious problems that must be addressed. Reforms mandating automatic joint and survivor annuities are vital. This requirement would encourage spouses to consider more strongly the effects of not electing this coverage. I also feel strongly that retirement plans should be required to inform participants of details regarding specifically when they will and will not be entitled to survivor benefits. I advocate that the plans be required to offer survivor benefits in the case of a death of a plan participant who has reached age 45, and who has completed 10 years of service, as Senator Dole has suggested in his compromise bill.

Finally, I would like to express my support for provisions calling for the assignment of pensions in divorce settlements. I strongly believe that pensions are the property of both spouses and should be treated as such in divorce settlements.

I appreciate the opportunity to share my views with the committee and am encouraged to see that the prospects for passage of many important reforms intending to benefit women economically are great.

CHILD CARE LAW CENTER
San Francisco, Calif., October 11, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: This year, several important provisions affecting child and dependent care have been proposed in the Economic Equity Act, H.R. 2090.

Expansion of the sliding scale for the child and dependent care tax credit from 30 percent to 50 percent form families with incomes at $10,000 or below, scaling down to 20 percent for families earning over $40,000. (Also H.R. 1991, Representative Barber B. Conable, Jr.).

Making the child and dependent care tax credit refundable so that families whose incomes are too low to pay taxes or whose credit exceeds their tax liability could take advantage of the credit.

Tax-exempt status for non-profit dependents care programs for the children of working parents. (Also, H.R. 1991, Representative Barber B. Conable, Jr.).

The Child Care Law Center urges your support of all three of these provisions. As a legal resource for the child care community, the Center provides legal education, publications, services and advocacy on a wide variety of legal issues in child care. (See enclosed brochure and publication list). We have particular concern for the needs of low-income working families for whom child care is especially difficult to locate and afford.

Interest in dependent care tax credit

During the past few months, I have made several presentations on the child care tax credit to groups of federal employees on the Bay Area under the auspices of the Women's Bureau of the U.S. Department of Labor and local Federal Women Project Managers. Interest in the credit runs high. Over 100 federal employees attended a noontime seminar at the San Francisco Federal Building on February 9, 1983. Many of these were female and minority support personnel, including several single parents. While most federal employees are not generally "low-income" individuals, these single mothers earning at the lower GSA clerical levels felt the economic pinch and were anxious to maximize their benefits under the credit.

To encourage use of the credit, the Child Care Law Center has published an informational booklet for parents, as well as a brief flyer prepared in conjunction with the San Francisco Commission of the Status of Women. We believe that public education about the credit is greatly needed to make certain that it is equally accessible to lower income families.

Proposed amendments to dependent care tax credit

To insure truly equal access to the credit, expansion of the sliding scale and refundability are necessary. The reality of child care is that it is pervasive, that no one system could possibly meet the variegated desires and needs of all types of families, and that most people cannot afford the care which is available. The child care tax credit is one rational and realistic mechanism by which the federal government can recognize the limitations and realities of the current child care delivery system and give immediate, greatly needed, support to low-income families.

Even very low-income families can benefit from a refundable credit. Our experience suggests that most low-income families have at least some child care costs since free alternatives are not readily available. Subsidized care is not sufficient to meet the need. Indeed, most subsidized centers have waiting lists of three to four time their capacity. Unpaid care by grandmothers and aunts is diminishing as these women take jobs outside their homes. The unfortunate fact is that a lack of money may force low-income parents to forego much-needed child care services thereby potentially jeopardizing their child's health and safety. For example, on June 8, 1983, the Senate Children's Caucas held hearings on school age child care where experts pointed out that the number of latch key children has reached crisis proportions.

Tax Exempt Status for Dependent Care Programs

Another very important provision of the Economic Equity Act will make it easier for non-profit infant and school age child care programs for the children of working parents to obtain 501(c)(3) tax-exempt status as long as their services are open to the general public. This bill is an important delineation of federal policy concerning child care programs.

As child care develops in response to the increased labor force participation of mothers, some programs seek to obtain tax-exempt status. This is particularly true of community based programs which wish to obtain charitable contributions to defray start-up costs and provide scholarships for lower-income children.

Unfortunately, under current tax policies many such programs have had difficulty qualifying for tax-exempt status because they must demonstrate they are "educational". As a consequence, they have been asked to meet standards originally designed for private schools rather than child care programs. For example, infant programs must prepare a curriculum. While this curriculum may legitimately incorporate child development principles, the IRS is not always able to preceive activities like "water play" and certain equipment, such as a quilt designed to enhance the sense of touch, as "educational". As a result these programs have frequently been denied exempt status. Similarly, after-school programs which are designed to provide a safe, recreational experience for older children have failed to meet the educational standards set by the IRS.

The proposed legislation would eliminate these problems by amending the definition of educational to include dependent care programs. This is an important acknowledgement of the significant public service offered by dependent care programs for persons of all ages, including children. It is wholly fitting that the federal government should encourage these crucial family support programs to operate as tax-exempt entities. I urge your active support of this legislation and encourage you to contact me should you have any questions.

The legislation proposed in the Economic Equity Act offers you an opportunity to help America's parents care for their children while they work. We request that the Committee affirmatively support these important measures. Thank you for your concern for America's children and families.

Very truly yours,

KATHLEEN A. MURRAY.

HOWARD JOHNSON & Co.,
Spokane, Wash., October 14, 1983.

Mr. JOHN J. SALMON,
Chief Council, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: I am writing this letter concerning the Economic Equity Bill (HR 2090).

I believe the Bill's provision to reduce the age of participation from 25 to 21 years is inappropriate and not fundamentally sound.

I have been a pension consultant, working primarily with the small to medium plan, for nearly fifteen years. During that time, I have designed and installed in excess of 750 plans. I am currently administering in excess of 500 plans, the vast majority of which have fewer than 25 participants.

It is not the intention of this letter to debate and discuss the benevolent nature of employers toward their employees with respect to retirement benefits. However, I suggest to you that the vast majority of employees under the age of 25 will not stay with their current employer. In fact, by reducing the age limit from 25 to 21 will not only increase pension costs dramatically to people who have little or no interest in pension costs, it will serve to be a detriment to the very cause you are trying to accomplish. It is inappropriate to use a retirement plan as a "Severance Bonus" plan, and that is precisely what will happen if this bill passes as written. Moreover, employees in the age 21 to 25 range, by definition,continue to move on and are not interested in accruing retirement benefits. It is far more appropriate to be able to offer employees and prospective employees in that age group current compensation with the understanding that they will, upon the completion of the age and service requirements, be eligible to enter the company's retirement plan.

There is simply no need to change the existing standards; they work!

Yours very truly,

STEPHEN B. BERDE.

STATEMENT OF HON. GILLIS LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

I want to express my appreciation to Chairman Rostenkowski for holding these important hearings on issues affecting economic equity for women. I welcome this opportunity to again express my wholehearted support for H.R. 2090—The Economic Equity Act. I am proud to be a cosponsor of this long overdue legislation. It begins to respond to the widespread economic discrimination which the women of our nation have suffered and continue to suffer.

This legislative package contains many of the elements necesary to secure fairness, betterment and security for the women of this generation and future generations. I believe this legislation is important for many reasons. It recognizes the contribution and worth of the nation's homemakers. It seeks to assure that our young women will no longer be penalized for leaving the workforce to have children and raise families. It addresses some of the inequities in present pension and tax laws which have an adverse impact on widows and elderly women. It enhances employment opportunities for displaced homemakers. It improves income tax deductions for heads of household. It improves dependent care benefits.

One need only look at the statistics to recognize the discrimination women have suffered in pension benefits, taxes and job opportunities. For exemple, women have their highest participation in the workforce between the ages of 20 and 24, yet private pension plans, as required by ERISA (the Employee Retirement Income Security Act of 1974) only allow an employee to participate in a pension plan on the latter of two dates—the day the employee reaches age 25, or the day the employee having reached age 25, completes one year of service. Thus, a woman who began working at age 21, and left her job at age 29 to have a child had worked eight years, but only received a four year pension eligibility credit. In comparison, her male counterpart would receive credit for the full eight years.

The Economic Equity Act addresses this inequity by lowering the minimum participation age for private pension plans from age 25 to 21. This will give more of our yound women the opportunity to share in pension benefits, to which the are rightfully entitled.

Another example deals with pension credit for maternity/paternity leave. Ordinarily pension credit is only given for the period of paid employment. The exception is for workers who leave a job for military service in time of war, the majority of whom are men. Not only is unpaid leave usually not credited, but if it constitutes a one year break-in-service, it may exceed the years worked before the break. In that case, credit for the pre-break years may be lost if the break begins before the worker has earned the right to a pension.

Many women forfeit their pension vesting rights to have children. 1981 statistics show that the median number of years on the current job for women was 2.5 years, compared to four years for men. Time off for childbearing is one factor in this gap.

The Economic Equity Act addresses this inequity by modifying break-in-service rules to give 20 hours per week credit for up to one year of employer approved maternity or paternity leave, provided that the worker returns to his or her job. Thus, our young women will not be penalized for becoming mothers and raising families.

The bill also addresses another critical area where pension reform is needed to protect survivors of annuitants. Although current law requires that all plans provide their married employees with a joint and survivor annuity option, most plans provide a single life annuity unless the employee specifically elects the option. Currently there is no requirement for the consent, or even the notification to the opted out spouse. Horror stories associated with this optional approach to survivor's benefits abound. For example, a widow who was married for 30 years discovered only after her husband's death that he had opted out of survivor's benefits.

The Economic Equity Act addresses this inequity by requiring the written consent of both participant and spouse to waive the survivor annuity option. Thus, a married couple will make a joint decision affecting the surviving partner. The surviving partner will no longer be denied benefits without prior knowledge and consent.

This legislation also deals with survivors who lose benefits due to their spouse's early death. The adverse impact on women was made clear in a 1978 study conducted by the Department of Labor. It projected that over the next five years (1979-84), 74,000 women would lose benefits due to their husbands' early death. In one case, a widow whose husband worked for a company for 29 years, but died 13 days before his 55th birthday, was denied any benefits.

Currently ERISA permits a forfeiture whereby fully-vested employees dying before their plan's early retirement date cannot leave survivor's benefits to the spouse. When this happens to fully-vested workers within a year or two of retirement age, their widows get nothing.

The Economic Equity Act addresses this inequity by requiring payment of survivor annuities to the spouse of a worker who was fully vested, even if that worker dies before reaching the early retirement age. Thus, a widow would be protected. She would receive her pension in the same year her husband would have been able to start collecting his. She will receive a modicum of support for her later years automatically if her spouse has worked ten years under the plan—unless both spouses agree to give it up.

I also support those provisions which abolish the ERISA provision allowing plans to deny widow's benefits if an otherwise qualified spouse dies from natural causes within two years of choosing survivor benefits.

The Economic Equity Act abolishes the two year waiting period. Thus, the surviving family members are provided with some measure of economic security in retirement. This important aspect of the bill addresses cases where death occurs suddenly or is unforeseen at the time of the election, very often from sudden heart attacks or swiftly progressing cancer.

Much needed reform in Individual Retirement Accounts is also covered in this bill. Presently a full time or part time homemaker's access to IRAs is limited and fails to recognize the importance of their economic contribution to the family by making it possible for their husbands to fill the "breadwinning" role. Homemakers cannot set up IRAs for themselves. The husband cannot set up an IRA for his homemaker wife unless he also sets up an IRA for himself. Workers can contribute no more than 100 percent of their income to an IRA opened in their own right. Therefore, women who work part-time or at low earnings may be able to contribute less on their own accounts than the maximum $250 which would have been contributed to a homemaker IRA had they stayed home full-time.

The Economic Equity Act permits a homemaker with no earnings, or lesser earnings of her own, to contribute to a spousal IRA as much as the earnings of her husband would allow. This permits each spouse a maximum deduction of $2,000 annually. It no longer penalizes full- or part-time homemakers, and gives them equal access to this retirement.

Mr. Chairman, I have cited only a few examples of how the Economic Equity Act would improve pension and tax benefits for women. I also want to express my support for those sections of the bill dealing with special tax credits to employers who hire the nearly 3.3 million displaced homemakers; amendments to the Internal Revenue Code to equalize the standard deduction of heads of households to that of married couples filing jointly; and improvements in Department Care benefits.

In summary, I support the Economic Equity Act in its entirety, and urge my colleagues to enact federal laws to eliminate the inequities women experience under our present pension, dependent care and tax policies.

STATEMENT OF HON. ROBERT J. MRAZEK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, the role of women over the past 30 years has changed dramatically. With more and more women entering the workforce out of economic necessity, a need has arisen to assess our current tax laws which have not taken into account the unique work patterns of women and have, in fact, served to penalize them. I applaud the Economic Equity Act as a means to correct many of the inequities and urge its prompt passage.

In presenting testimony in support of the tax and pension provisions of the Economic Equity Act, I would like to take this opportunity to comment on a few aspects of the Act.

Today over 50 percent of all children have mothers in the labor force. Clearly, the need to provide adequate dependent care for our nation's youth has never been greater. Current laws make it difficult for women, especially those in lower income brackets, to obtain the necessary care for their children. The Economic Equity Act addresses a number of important matters aimed at improving affordable care nationwide.

Critical to maintaining this vital service for working mothers are three tax reforms. The EEA raises the allowable tax credit percentage, provides non-profit status for dependent care centers, and makes dependent care tax refundable. These measures are effective tax reforms which will not only improve the availability of dependent care, but will enable more women to work with the knowledge that their children are under safe and professional supervision.

Another aspect of the bill addresses a group of women who have spent a substantial number of years in the home caring for their families and have lost their source of support through separation, divorce, or the disability or death of the primary wage earner in the family. These women generally lack the marketable skills needed to obtain a job, yet find it necessary to enter the workforce to support their families. Presently there are 3.3 million displaced homemakers in this country.

In order to assist these women to enter the workforce and obtain jobs with an opportunity for advancement, the Economic Equity Act would provide tax credits to employers who seek out and hire displaced homemakers.

Displaced homemakers who have spent years in the home caring for their families should not be punished by social policies. The federal government must recognize its commitment to helping this growing number of women who so clearly deserve our support.

While these are just two of the many important provisions of the Economic Equity Act, they are indicative of the need for change in a vast number of laws that do not take into account the current needs of women. Women have been shortchanged by pension and insurance policies, and in federal income tax policies. I hope that the Committee will take favorable action and move this package to the floor as promptly as possible.

In addition, I would like to take this opportunity to speak out about a situation that affects a growing number of children of divorced parents. This involves the issue of child support payments.

While it is inconceivable that a divorced parent would refuse to help support his or her child, the harsh reality is that child support delinquency has reached epidemic proportions. According to 1981 Census Bureau data, only 53 percent of custodial parents received the full court ordered payments that were due their children, with 28 percent receiving nothing at all.

The Child Support Enforcement Act would require states to enforce laws to collect child-support payments through mandatory withholding of wages. This bill is necessary to ensure that our nation's children are not held hostage by inadequate child support.

Children are our most precious assets. I urge the Committee to take swift action on this bill to ensure their well-being.

STATEMENT OF CLAIRE RANDALL, GENERAL SECRETARY, NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.

This testimony is presented on behalf of the following: American Baptist Churches, USA; American Ethical Union; Christian Church (Disciples of Christ); Church of the Brethren; Commission on Social Action of Reform Judaism, Union of American Hebrew Congregations; Episcopal Church, Washington Office; Friends Committee on National Legislation; Jesuit Social Ministries, National Office; Office for Governmental Affairs, Lutheran Council in the USA.; Maryknoll Fathers and

Brothers; National Assembly of Religious Women; National Council of Churches; National Federal of Temple Sisterhoods; NETWORK, A Catholic Social Justice Lobby; Presbyterian Church, U.S.A.; Synagogue Council of America; United Church of Christ; United Methodist Church, General Board of Church and Society; Unitarian Universalist Association; and Women's Division, The General Board of Global Ministries United Methodist Church.

As members of denominations and faith groups, our belief in a higher purpose in life, revealed to us through the scriptures and works of God, causes us to be responsible to God's teachings and to strive to fulfill demands for justice in all aspects of life. We are called to serve God and to serve humanity in the light of this understanding. This service calls us to speak out on injustice as we find it in the practices and policies of government. An integral part of our faith is that God's love makes no distinction of worth between male and female. They are equal in value in God's sight; therefore, distinctions made by society which assume an inferior-superior relationship are contrary to the will and justice of God. The right of each person to achieve his or her maximum potential is basic to our understanding of God's will.

We commend you, Mr. Chairman, for holding hearings on the Economic Equity Act and initiating House action on this legislation. We are pleased to have the opportunity to support this legislation and we urge the Committee to move this legislation through the House this session.

We support the Economic Equity Act because of our belief in the natural equality of men and women. We affirm the historical importance of the woman's role in the parent-child relationship; however, our society has locked most women into stereotyped roles as housekeepers and child-raisers without regard to their desires or abilities to perform other kinds of work. This stereotype has contributed to widespread discrimination in employment, pensions, insurance, job training, education and compensaion for work performed. Women, sheltered by their husbands' earnings and presence, may never learn discrimination exists until widowed or divorced. Women are excluded from better paying jobs, and in many instances they receive less pay for performing the same or similar work. The health of the family and all institutions of our society depends on the contributions all can make; thus, to deny any group the right to fulfill its maximum potential is to deprive society of the most effective means for solving its increasingly complex problems.

Economic inequity exists; economic inequity is harmful; economic inequity is wrong

Economic inequity harms every citizen of this country regardless of sex, but it especially harms women: two out of three poor adults are women; families headed by women are continuing to experience a steady economic decline, greater than that faced by families headed by men.

The "feminization of poverty" refers to the trend of increasing numbers of women and their children living in poverty. What seems to be emerging as a significant cause of this pattern has been the morass of governmental laws which are based on the assumption that women are economically dependent on and are provided for by men. For example, Congress has not authorized a reclassification of Federal jobs since the early 1920's; many of these classifications encourage job segregation, paying women less for comparable work.

Dr. John Hart Ely, Dean of Stanford University Law School, in his recent treatise on law, Democracy and Distrust, said that "most laws classifying by sex were not passed this morning or even the day before yesterday; in fact, it is rare to see a gender-based classification system enacted since the New Deal. In general, women could not even vote until the 19th Amendment was ratified in 1920 and most of these laws (that discriminate against women) predate even that." Dr. Ely's main thesis is that women have not consented to the majority of the laws which govern them; which discriminate against them. They were codified before women could even vote.

Today most laws do not reflect women's equality in marriage. Women's ability to be financially sound and independent, to buy adequate insurance for herself, to provide safe, affordable daycare for her children, to enjoy her later years without fear from poverty, can be greatly enhanced by changes in our federal policy.

We need laws that reflect life as it really is today, not of some time period in which women did not have the vote. We need policies that support the quality of life and the equality of persons. We need laws that recognize the social and economic contributions of our citizens. The Economic Equity Act represents a major effort toward that end.

TITLE I: TAX AND RETIREMENT MATTERS

Because we believe in the basic goodness and worth of every human person, we fully believe that the displaced homemaker who suddenly becomes responsible for her own economic survival is willing to take on and live up to that responsibility. We also believe that it is essential social policy that the opportunity to begin the transition from homemaker to wage earner be available to such a person, and that this opportunity be a first step on the road to economic independence and self-development. Thus we urge that displaced homemakers be included as a target group for the targeted jobs tax credit program.

Our IRA laws harm as they penalize the divorced person for whom alimony or spouse support is a source of income by disallowing this type of income to be treated as earnings for eligibility for establishing an individual retirement account (IRA). Federal policy is thus inhibiting such a person's ability to undertake responsible and sound financial planning and management. This is clearly unfair and needs remedy. We urge the committee to adopt the changes in our retirement income laws that are contained in HR 2099.

On the matter of pension reform, we support the legislation's proposal to lower the age for pension plan participation to an earlier age than 25. This will be advantageous to younger men and women, many of whom now enter the work force at earlier ages than previously. We support the Civil Service Retirement Provision which allows the divorced spouse or widow a pro-rata share of the retirement benefit to which her husband is entitled. Denying her these benefits is to deny the contribution she has made to both her marriage and her husband's career.

We urge the committee to continue its good efforts through this legislation to recognize life as it is today. Women sometimes leave their jobs for periods of time to give birth. Women become widows if their husbands die and become former spouses if their marriages end. Heads of households, whether they are single persons or couples, are responsible for those households, and they deserve equal treatment under the federal tax laws.

TITLE II: DEPENDENT CARE

We support the provisions in the Economic Equity Act that would increase the allowable tax credit for work-related dependent care from the present 30 to 50 percent and the section that would allow the credit to be refundable so that these families whose incomes are too low to have a tax liability could have access to the credit similar to those families at higher income levels.

The changes in the dependent care tax credit included in the Economic Equity Act represent a critical step in assisting low income working families to better meet their dependent care needs. Low income working families with young or elderly or disabled relatives share an important need—the need for support in caring for their dependents. Women bear a disproportionate share of this responsibility. During their working lives, they are expected to balance a job outside the home with their responsibilities in raising a family. The Dependent Care Tax Credit can offer families even more help in meeting the caregiving needs not only of children but of elderly relatives and disabled dependents.

Adequate child care is already a pressing need for many American working families. The supply of child care lags so far behind the need that as many as six to seven million children 13 years old and under, including many preschoolers, may go without care for significant parts of each day while their parents work. School age children are increasingly caring for themselves; millions come home to empty houses, or "hang out" on playgrounds until their parents return from work. In every community, this number is growing.

Hundreds of churches and synagogues throughout our various organizations have experienced increased demands in our local communities around the country to provide space for day care and evening care; centers that care for children of all ages and for adults who are aged and disabled. A recent national study conducted by the National Council of Churches on child care found that the churches, through the use of their facilities, may be the largest provider of child day care in the nation. It also found that the present political climate has had a major effect on day care services. The survey found that day care is undergoing gentrification—increasingly serving middle-class parents who can afford to pay the fees, thus leaving fewer slots for lower class parents. Federal budget cuts have contributed to this by slashing funds for Title XX and CETA, both of which subsidized day care for low-income families.

Forty-six percent of all pre-school children (8.5 million) have mothers in the labor force as do 56 percent of school age children; 57 percent of women with children between the ages of three and five are in the labor force as are 46 percent of women with children under three. Women work because of economic necessity. Two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. Over one third of families headed by women live below the poverty line. Lack of child care is a major factor in keeping women and children in poverty.

Many families have an equally pressing need for adequate care for elderly dependents. It is estimated that 78 percent of women aged 46 have a surviving parent. The potential for parent care responsibilities has been steadily increasing since 1920, when there were 76 elderly for every 100 middle-aged persons. Today, there are 180 elderly for every 100 middle-aged group; the age group over 80 is the fastest growing segment of the population.

A great deal of home care is provided by relatives. 80 percent of in-home care for the impaired elderly is provided by relatives. Yet, adequate support is not provided to working families who take on the responsibility of home care.

Another group who would benefit from the proposed changes in the dependent care credit are families with disabled relatives. Because these dependents often require costly special services and equipment, those caring for them have a great need to earn income. Despite the importance of appropriate care, families find it exceedingly difficult to locate such care for the estimated 500,000 handicapped children under six in this country as well as the 4.2 million school-age children with handicaps. Additionally, there are some 8.4 million severely disabled adults (aged 8 to 64) who are living in families with at least one other adult. Help in meeting the expenses of care for these children and adults could make it possible for other family members to enter the labor force and better meet their entire family's needs.

Primary responsibility for dependent care falls on women; 80 percent of all the home health care in this country is provided by daughters, sisters, nieces, or other female kin whose mean age is 55. Middle-aged women faced with the responsibilities of caring for relatives are likely to be working.

TITLE III: NONDISCRIMINATION IN INSURANCE

As people committed to the elimination of all forms of discrimination, we support your efforts to rid the insurance industry of the use of gender-based actuary tables that have a discriminatory effect on women consumers. Use of gender as the primary determinant of insurance premiums is a criteria that subjects women to a heavy burden because statistics show that women outlive men by six to nine years. This is, in fact, contrary to a Senate study last year which showed that out of 100,000 men and 100,000 women, 85 percent of both have equal life expectancies. An individual woman should not be forced to pay premiums and receive benefits according to a statistic that is unrelated to her own lifestyle.

We view this legislation as continuing the important civil rights effort begun by the Supreme Court in 1978 when it ruled that it was a violation of Title VII of the Civil Rights Act to classify a person as a member of a sex, racial, national, or religious class. Whereas this case applied only to employer-sponsored pension plans, Congress has the authority to extend this practice to the private industry, and we encourage its efforts to do so.

TITLE IV: REGULATORY REFORM

We applaud the Economic Equity Act's provisions requiring the head of each federal administrative and executive agency to rewrite those regulations that make gender-based distinction or that result in gender-based discrimination in federal programs. This is essential to a national policy of equity for both sexes and to the elimination of discriminatory patterns and practices.

TITLE V: CHILD SUPPORT ENFORCEMENT

It is an indisputable fact that separation and divorce are common in our society. This has resulted in a rise in single-parent families. Most often, that single parent is a woman. Divorce alters both the structure and the economic status of the family unit. For families dependent on two salaries, income is drastically reduced. For families living on one salary, subsistence is jeopardized. The result: half of all children living in poverty live in female-headed households; 87 percent of AFDC recipients are single-parent families.

Necessity usually demands that a female head-of-household become a working mother. Necessity also demands that her income be subsidized by child-support payments. Unfortunately, court-awarded child support is not often paid. In 1978, one-fourth of the women awarded child support by the court received nothing; another one-fourth received less than the full amount.

Title V of the Economic Equity Act would strengthen the Child Support Program already mandated by the Social Security Act. It would clarify the intent that the program secure payments for all children, AFDC cases and non-AFDC cases alike. It would permit states to notify the IRS of parents who owe support payments to non-AFDC children in order that tax refunds be garnished for support payments. Under Title V, states would be required to adopt a more strident procedure for locating delinquent parents and obtaining support payments.

We support Title V of the Economic Equity Act. Poverty is a vicious cycle. If we can prevent children from living in poverty by securing support payments, we can preserve the future for them, for their children, and for our society.

Signed: Dr. Robert Campbell, General Secretary, American Baptist Churches, USA; Raymond Nathan, Director, American Ethical Action Office, American Ethical Union; Dr. Kenneth Teegarden, General Minister and President, Christian Church (Disciples of Christ); Robert W. Neff, General Secretary, Church of the Brethren; David Saperstein, Co-Director, Commission on Social Action of Reform Judiasm, Union of American Hebrew Congregations; William Weiler, Director, Episcopal Church, Washington Office; Edward Snyder, Executive Secretary, Friends Committee on National Legislation; Gasper LoBiondo, Executive Director, National Office of Jesuit Social Ministries; Charles B. Bergstrom, Executive Director, Office for Governmental Affairs, Luthern Council in the U.S.A.; Maryknoll Fathers and Brothers; Marjorie Tuite, O.P., Chair, National Assembly of Religious Women; Clarie Randall, General Secretary, National Council of Churches; Constance Kreshtool, President, National Federation of Temple Sisterhoods; Nancy Sylvester, National Coordinator, NETWORK, A Catholic Social Justice Lobby; James E. Andrews, William P. Thompson, Interim Co-Stated Clerks, Presbyterian Church (U.S.A.); Rabbi Irwin M. Blank, Washington Representative, Synagogue Council of America; Dr. Avery Post, President, United Church of Christ; Haviland C. Houston, General Secretary, United Methodist Church, General Board of Church and Society; Dr. O. Eugene Pickett, President, Unitarian Universalist Association; Ruth A. Daugherty, President, Women's Division, the General Board of Global Ministries, United Methodist Church.

National Education Association,
Washington, D.C., October 28, 1983.

Hon. Dan Rostenkowski,
Chairman, Ways and Means Committee,
House of Representatives, Washington, D.C.

Dear Chairman Rostenkowski: I am writing on behalf of the National Education Association to express our strong endorsement of H.R. 2090 and the related legislation that is being examined by you and the other distinguished Members of your Committee.

The NEA represents 1.7 million educators and education support personnel throughout the country. Our members have consistently been in the forefront of efforts to insure that equality of opportunity is secured for every American. Furthermore, since nearly 70 percent of our membership is female, we have a direct and practical interest in economic issues affecting women. Although there has been progress toward economic equality in our country, we have much unfinished business yet to accomplish. We must not tire in our efforts. H.R. 2090 and the related legislation, which address several areas of vital import to the economic welfare of women, is a positive step in that direction.

Retirement and pension regulations are central to the quality of life that women, whether they have worked inside or outside the home, will experience in their later years. We know that the treatment of these issues can make the difference between mere subsistence or impoverishment and an honorable, healthy existence for women in their later years. The fact that older women are the fastest growing poverty group in America is well known by now. The statistics speak for themselves. Single women over 65 living alone comprise 85 percent of all elderly people living alone below the poverty line. We believe that current law regulating Individual Retirement Accounts and survivors benefits must be corrected wherever it contains inherent biases against homemakers, widows, or divorced women, however unintentional.

We also believe that displaced homemakers should be included among the groups eligible for targeted jobs credits. This is necessary to encourage employers to hire women who need and want to find work to support themselves and their families when they find themselves no longer supported by their husbands. Further adjustments in the provisions regarding dependent care and zero bracket amount are required to insure fairness to all workers in low-income households.

We are pleased that the Committee is holding hearings on these vital matters and urge you to proceed with Committee action. We believe passage of legislation to secure these rights is imperative to eliminate the severe difficulties faced by the many women who have made a significant contribution to the health and well-being of our free society either in homes around the nation or in the workforce. We must do as much for them in return.

We look forward to working with your Committee to provide whatever assistance may be needed to achieve enactment of these vital statutory provisions.

Sincerely,

LINDA TARR-WHELAN,
Director of Government Relations.

STATEMENT OF HON. MICHAEL G. OXLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Chairman Rostenkowski and members of the Committee on Ways and Means, thank you for giving me the opportunity to submit a statement on the issue of economic equality in various tax, pension and related federal laws as addressed by the Economic Equality Act and similar legislation. I commend the committee for focusing on this important matter.

While I concur that all of the economic equality issues addressed by the Economic Equity Act merit the committee's consideration, I would like to concentrate my statement on the topic of Spousal Individual Retirement Accounts (IRA's), specifically the inequity in current law which denies qualification for equal IRA's to homemakers.

Current law discriminates considerably against married couples with only one income. Because it is traditionally the wife who chooses not to work outside the home, women become the primary target of the law's discriminatory provisions.

Under current law, a married couple who both work outside the home may contribute up to $2,000 annually to their IRA's, allowing them a total combined contribution of $4,000. A married couple with only one income, however, may contribute a total of only $2,250 per year to their Spousal IRA. (While this $2,250 contribution may be divided in any amount between the two, the total amount which may be accumulated toward retirement remains significantly lower than that permitted to the married couple with two incomes.)

This restriction is unfair to millions of American homemakers who do not hold jobs outside their homes. Granted, many women have entered the workforce. But many others have chosen not to, even when their decisions have meant putting off or giving up their careers to remain at home and devote their time and talents to their children. Raising a family should not force the homemaker to suffer financially when she retires. Yet that is exactly what often lies ahead for the woman who chooses to work outside the home.

Ironically, denying equal IRA's to homemakers also serves to defeat the very purpose of the IRA—to provide adequate retirement income levels for U.S. citizens. If the one-income family is depending solely on a Spousal IRA for retirement security, their savings most likely will not be adequate. Yet it will cost this married couple just as much for food and shelter when they reach retirement age as it will the married couple who both have worked outside their home and have been allowed to contribute to two individual IRA's.

Not only does the current law discriminate against homemakers, but it fosters situations where women are made too dependent upon their spouses for their future economic security. The law fails to either enable or encourage homemakers to provide for an independent future. As a result, older women have significantly lower median incomes and, according to testimony submitted to the House Select Committee on Aging, are the fastest growing segment of our population and the single poorest group.

It is clear that the law needs to be changed to correct these glaring inequities. I urge the committee, therefore, to adopt legislation that would enable both the husband and wife to create an IRA in his or her own name using funds earned by either party. I am a cosponsor of legislation, H.R. 765, introduced by Representative Hal Daub of Nebraska, which would implement this provision. To his credit, President Reagan has endorsed similar legislation.

The time for Congress to recognize the full worth of work done in the home is long overdue. Approximately 43 percent of this nation's mothers are staying home.

Freedom of choice is vital to the Constitution. The lack of IRA's for homemakers is an inequity that restricts this freedom and threatens the future of homemakers as a legitimate and contributing segment of society.

Enabling homemakers to establish their own IRA's also would benefit the economy. The money set aside in IRA accounts provides capital needed for new housing, automobiles, and investment in projects that create jobs. When money is put into IRA's, everyone benefits.

Again, I thank the committee for addressing this important issue and urge that any plan adopted to correct the economic inequities of current law recognize the needs and contributions of American homemakers by removing the restrictions now placed on Spousal IRA's.

Profit Sharing Council of America,
Chicago, Ill., October 27, 1983.

Hon. Dan Rostenkowski,
Chairman, House Ways and Means Committee,
Longworth House Office Building, Washington, D.C.

Mr. Chairman: The Profit Sharing Council of America ("the Council") is a non-profit association of approximately 1,300 employers who have profit sharing plans. Those plans cover approximately 1,750,000 employees. Council members are located throughout the United States and are engaged in practically all areas of economic activity.

The Council wishes to offer its comments specifically on the proposal under Section 5 of H.R. 4032 which would require a joint and survivor annuity to be the normal form of benefit payout for any plan which offers an annuity as a benefit payment option and Section 1 which would lower the minimum participation age from 25 to 21.

I. JOINT AND SURVIVOR REQUIREMENTS

A. Current law.—Under current law, a joint and survivor annuity need not be provided to a participant as the normal form of benefit under a profit sharing plan even if an annuity is offered as a payment option. If a profit sharing plan provides that an annuity may be purchased, and if a retiree elects to receive his benefit in annuity form, only then must he or she make an election not to receive a qualified joint and survivor annuity. Further, the notices with respect to a joint and survivor annuity are not required to be distributed to the retiree unless he elects the annuity payment option.

The Council's surveys show that from 80 percent to 85 percent of all distributions from its members' profit sharing plans are in the form of a lump sum distribution. The receipt of a lump sum distribution from a profit sharing plan may have advantageous cost and tax benefits associated with that form of payment. Unlike most defined benefit plans, the Council knows of no profit sharing plan which does not provide for full vesting upon the death of an unvested participant and for payment in full of such amount to a designated beneficiary. The Participant's beneficiary is afforded the opportunity of a $5,000 income tax exclusion under Section 101(b) of the Code when a lump sum distribution is paid to him or her. This form of benefit payment has the added advantage of eliminating the expenses involved in buying an annuity from an insurance company and is cost effective from an administrative standpoint.

b. H.R. 403 proposal.—Under the bill, a joint and survivor annuity would be provided to all participants as the normal form of benefit payment if an annuity is offered as a payment option under a plan. This would reverse current law as set forth in *BBS Associates, Inc. v. Commissioner,* 74 T.C. 1118 (1980), affirmed by CA-3, July 29, 1981 in an unpublished opinion.

C. Council position.—The Council feels that present law is the most logical approach with respect to the distribution of benefits from a profit sharing plan because of the inherent differences between defined benefit and defined contribution plans. Generally, the normal form of benefit payment under a profit sharing plan is not a life annuity. By its very nature, a defined contribution plan is not intented as a funding mechanism for the payment of an annuity and, in fact, cannot pay in an annuity form of payout since each participant has a fixed value to his or her account. There is no additional source of funds if a participant were to live longer than his or her actuarial life expectancy. An employer's contribution to a profit sharing plan is unlike that of a defined benefit plan in that it is not actuarially set to provide a specific benefit. Prior to the time of retirement, it is impossible to determine the annuity benefit of a participant under a profit sharing plan. Distributions are generally made, therefore, either in the form of installment payments, a lump sum distribution, the purchase and distribution of an annuity contract from an insurance company, or any combination of the foregoing. At present, many profit sharing plans offer an annuity purchase option to participants in order to give the employees maximum flexibility in their retirement planning.

Many profit sharing plans have a portion of their assets invested in Guaranteed Investment Contracts offered by insurance companies. This has been a particularly attractive form of investment in periods of high interest rates due to the guarantee of the interest rate and principal for a set period of years, generally three to five years. The insurance companies must tie these contracts into an offer for an annuity payout, if requested. This is done to comply with state insurance laws. Accordingly, many plans would eliminate this attractive form of investment, rather than going through the administrative burdens of compliance with the proposal.

The Council is also opposed to the administrative and cost burdens that would accompany the adoption of a mandatory joint and survivor form of benefit in a profit sharing plan. Within prescribed time periods, the administrator of a profit sharing plan would have to supply the participant with a description of the joint and survivor annuity, an explanation of the circumstances in which it will be provided, and an explanation of the dollar impact of the annuity, as well as furnish additional financial and explanatory information pertaining to an individual's benefit upon the employee's request. Prior to the actual purchase date of the annuity it is impossible for an employer to project the value of a participant's profit sharing account as of some future retirement date. The information which would be required to be distributed under the proposal would be purely speculative and, therefore, meaningless to participants in a profit sharing plan.

Further, because in a profit sharing plan, the annuity must be purchased from an insurance company rather than paid from the plan, it would be expensive and time consuming for a plan sponsor to keep apprised of the varying contract provisions, interest rates, commissions and administrative costs associated with the annuity benefit availale from each insurance company and to then relay such information back to the participant. Plan sponsors, therefore, would probably eliminate the annuity purchase option from their plans altogether.

One stated reason for requiring a joint and survivor annuity in profit sharing plans is that it would make survivor benefits available in more cases than is currently true. This reasoning is faulty. First of all, profit sharing participants' beneficiaries are presently entitled to survivor benefits in the full amount of the account balance, whether the death takes place before or after early retirement age. Second, for the reasons stated above, many profit sharing plans which presently offer an annuity option would eliminate it if the new proposal becomes law. This would, therefore, act to decrease the present flexibility available for retirees in choosing alternative forms of benefits from profit sharing plans. Enactment of the bill may, therefore, actually result in fewer benefit payment options for profit sharing plan participants. Elimination of the life annuity payment option would be to the detriment of those participants who would like to use a profit sharing plan to provide an annuity.

II. LOWERING OF MINIMUM PARTICIPATION AGE FROM TWENTY-FIVE TO TWENTY-ONE

A. Current law.—Under existing law, qualified profit sharing plans may not require as a condition of becoming a participant in the plan an age great than twenty-five.

B. H.R. 4032 proposal.—The bill would require that plans may not require an employee to attain an age greater than twenty-one as a condition of participation.

C. Council position.—The Council submits that there are sufficient detrimental effects to a lowered participation age to outweigh the intended beneficial effects of the rule. First, there are administrative duties attached to the commencement of participation in a qualified plan. From both a legal and employee benefits standpoint, information concerning the plan must be disseminated, employee meetings held to answer questions concerning the plan, and accounts and recordkeeping set up to keep track of hours worked, salary paid and account balances. Second, such activities have substantial expense and cost factors attached thereto. Plan sponsors presently face, therefore, both administrative and economic burdens in their compliance with ERISA and TEFRA.

A profit sharing plan is intended primarily to provide retirement income through sharing in the profits of an employer. However, varying events under the terms of a profit sharing plan may trigger the distribution of an employee's benefit in advance thereof. For example, payments may be made at termination of employment. Small benefits accrued to the time of a younger employee's termination of employment generally would be characterized as severance benefits rather than retirement income. It would be both expensive and time consuming to maintain small account balances for terminated employees until they reach retirement age.

The legislative history of ERISA provides that a plan participation age under age twenty-five may not achieve the intended purpose of providing reitrement income. Even though a business establishment may employ many younger employees, few will remain in their present place of employment for length of time to obtain a meaningful retirement benefit (for example, students working in order to accumulate funds for education). The high employment turnover rate of employees under age 25 could require administrative costs in maintaining account balances for such employees in almost the same amount as the relatively small account balances set aside for such employees, especially where graded vesting schedules are used and forfeitures occur upon termination of employment. The Council does not object to a retroactive crediting of years of employment prior to age 25 for purposes of vesting, but submits that required participation in a profit sharing plan prior to that age would not meet the goals of ERISA in terms of providing meaningful retirement benefits.

III. SUMMARY

In summary, the Council feels that with respect to profit sharing plans, present law should be continued for the following reasons:

First, the joint and survivor requirements should only be effective if a participant elects an annuity form of benefit payment under a profit sharing plan. It should be recognized that a life annuity is not generally the normal form of benefit from a profit sharing plan. Accordingly, we suggest that in the case of a profit sharing plan which offers a life annuity, the plan will be deemed to have complied with the requirements of Section 401(a)(11) of the Code if it complies with the joint and survivor notice and spousal consent requirements, only with respect to those participants who elect to have the plan purchase an annuity from their account balance as the form of distribution thereof.

Second, since profit sharing plans already generally provide for full payment of the account balance to a participant's beneficiary upon death, and since any annuity option must be "purchased" from an outside insurance company, it is unnecessary and incongruous to require a profit sharing plan to provide a pre-retirement joint and survivor annuity to active participants' spouses' commencing at early retirement date.

Third, the Council submits that the administrative burdens and costs of lowering the participation age from 25 to 21 would not, in fact, foster additional retirement benefits for the vast majority of workers. It would also lead to additional costs and administrative burdens for profit sharing plan sponsors.

Finally, the Council feels that the provisions of Section 6 of the Bill with respect to the amount and commencement of forced payment of profit sharing account balances pursuant to a qualified domestic relations order are not clear. The Council submits that payments should not be required to be made pursuant to such an order until the earliest date payments do in fact become payable under the plan's provisions. Further, in order to preserve the primary purpose of a qualified profit sharing plan (to provide retirement benefits to the participant) the Council suggests that not more than one-half (½) of the value of a participant's account as of the date of divorce be required to be allocated pursuant to such an order.

The Council appreciates this opportunity to submit comments concerning this bill.

Respectfully submitted,

WALTER HOLAN, *President.*

STATEMENT OF HON. MARGE ROUKEMA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, I appreciate the opportunity to testify before your Committee on the subjects of women's pension equity and dependent care.

We must change our pension laws to remedy inequities that were unforeseen at the time of enactment of the Employee Retirement Income Security Act (ERISA). Last month, these needed changes were articulated in the hearing before the Subcommittee on Labor-Management Relations, of which I am the Ranking Minority Member. I am most encouraged to see your Committee also considering the issue.

Several months ago, other Republican Congresswomen and I began meeting with the White House to address issues of economic equity for women. Pension equity was a key topic of discussion and, as a result, the Administration agreed to a comprehensive review and ultimately submitted a bill—the "Pension Equity Act of 1983"—which my Republican women colleagues and I have cosponsored.

The pension equity problem principally affects one particular segment of our population: women of retirement age. It is disturbing to note that 81 percent of all women over the age of 65 who live alone are living in poverty. While there is no single reason for this, the fact that less than 10 percent of all surviving spouses receive pension benefits is certainly a contributing factor. The importance of a pension is underscored by the fact that, while 32 percent of those who receive only social security benefits are at or below the poverty level, 98 percent of those receiving social security and pension benefits are above that level. This is one measure of the so-called "feminization of poverty".

Nevertheless, we cannot ignore the progress that has been made overall in pension coverage for both men and women. Since 1958, the percent of private sector employees covered by pension plans has grown from 32.4 to 50 percent. In addition, with enactment of ERISA in 1974, some progress was made for women with the inclusion of provisions such as required credit for service before a "maternity leave" (under certain conditions). In addition, any pension plan which offers benefits in the form of an annuity must also offer a "joint and survivor annuity" option, which provides continuation of benefits for the employee's spouse after the worker has died. That option is provided to a married employee unless he or she specifically indicates otherwise.

Despite these provisions, there are still numerous areas needing reform, as illustrated by the statistics cited. The "Pension Equity Act of 1983" addresses some of these concerns as follows:

Requires that employee's spouse must provide witnessed or notarized consent for the joint-survivor benefit to be rejected; lowers the minimum age of participation and vesting in a pension plan from 25 (participation) and 22 (vesting) to 21 in both cases; requires the continuation of vesting credit, under certain circumstances, during a maternity or paternity leave; and requires that survivor benefits be paid to a divorced ex-spouse as long as the divorce did not take place until after the annuity starting date.

These and other provisions would correct a number of the inequities in existing law.

However, the Administration bill, although noteworthy, does not go far enough. It does not address the situation of the spouse of a vested employee where the employee has died prior to the beginning of annuity payments. The surviving spouse receives nothing unless the employee has taken a qualified joint and survivor benefit option, which is normally only available when the employee reaches the age of 55.

For example, an employee could begin working for an employer at the age of 25, vest at the age of 35, and die at the age of 50 and the surviving spouse would receive absolutely no portion of those vested benefits. Meanwhile, she may have been doing her own work in the home, which leaves her without a husband, pension, or any other form of income support. Even if she receives an insurance payment, this is likely to tide her over for only a couple of years.

I believe that any bill this Congress enacts regarding pension equity reform must include a provision requiring the availability of a survivor benefit for spouses of employees who have worked long enough to have vested pension benefits. Any additional costs this may impose upon the plan can be eliminated by simply allowing the plan to pass those costs on to those who choose the early survivor option—either through higher employee contributions or slightly reduced benefits.

I urge your Committee to take prompt and positive action on women's pension equity. Our growing population of retirement age women who are in desperate need of the income provided by a pension.

An equally important issue which the Committee is addressing is that of tax credits for those who must provide care for their dependents. Dependent care is not limited to those with small children in the home, but continues into middle age with the necessity to care for elderly relatives and for those who are disabled.

Women tend to bear the responsibility of this duty. In their early lives, many women must, out of economic necessity, hold a job outside the home and also raise a family. After the children leave the home, these women often face the additional responsibility of caring for aging parents or husbands. Statistics indicate that almost 57 percent of mothers with children between the ages of 3–5 are in the work force, and that one in ten middle-aged women between 45–65 have the responsibility of an elder relative.

As one of the Republican women who has been working with the Administration in discussing these important issues, I would like to commend the President for all his efforts and support. I would, however, like to suggest that he reevaluate his proposal for zeroing out the tax credit for those individuals making $60,000.00 and above. I believe that the proposal that your Ranking Member, Mr. Conable has proposed is more equitable for all income levels.

Mr. Conable's approach would begin the credit at 50 percent for those making $10,000.00 and would gradually decrease the credit to 20 percent for those at the $40,000.00 level and above. The Administration's proposal begins the credit at 40 percent for those $10,000.00 level and gradually decreases the credit to zero at the $60,000.00 level and above. I believe that with the possible resumption of recent inflation rates $60,000.00 could become a middle income in just a few years for a two-earner family. While, I agree with the Administration that zeroing out the credit at some point makes economic sense, I believe that setting the level at $60,000.00 is too low.

In conclusion, I would like to thank the Chairman once again for holding these important hearings and would like to urge this Committee's immediate consideration of the proposals before them.

STATEMENT OF HON. JAMES H. SCHEUER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I appreciate the opportunity to present my views to the Committee regarding the tax and pension provisions of H.R. 2090, the Economic Equity Act.

"Equal pay for equal work" has long been both a slogan and a goal for women in the United States who are working for their right to be recognized as equal participants in our society. However, the inequities in our laws and the lack of recognition for their contributions go far beyond the single issue of salaries. Tax and retirement policies, which have a significant impact on a woman's ability to attain financial security, still contain gross inequities between benefits accorded men and those accorded women.

The Economic Equity Act addresses discrimination in private pension plans by revising sections of the Employee Retirement Income Security Act of 1974 (ERISA). It wisely lowers the minimum age for participation in private retirement plans from 25 to 21. Without this change, women between ages 20 and 24, whose highest labor force participation occurs during these years, will continue to suffer discrimination when their participation years are calculated for pension benefits.

In addition, this bill provides credit for approved maternity or paternity leave in order to compensate for credit frequently lost by women who take a break-in-service to have children. This modification is necessary, particularly in today's world, when economic factors are creating more two-income families. We can neither ask women to forego childbearing because they must support themselves, nor should we force them to choose between having careers and families. Failure to reform current policies may leave women few other options.

Furthermore, H.R. 2090 makes certain vital changes in joint and survivor annuity benefit practices which hurt women severely. These modifications will alleviate the pathetic and all too frequent occurrence of widows suddenly finding themselves without a means of support because they have unknowingly been "opted-out" of a husband's pension plan.

Moreover, this bill prudently addresses discrimination experienced by women who choose to be homemakers. The Economic Equity Act will alter the rules governing contributions to spousal IRAs which currently penalize women who work only part-time or have little income. Furthermore, it confronts the problems faced by displaced homemakers—those women who have spent many years at home raising children and one day find themselves without any financial support because of divorce, separation, or disability or death of their husbands. Allowing employers a tax credit for hiring displaced homemakers will enable women with little or no training and few marketable skills to enter or reenter the workforce and receive adequate opportunities for training, advancement, and an adequate salary with which to support themselves and their families.

I firmly believe these steps are indispensable in our efforts to eliminate discrimination against women. As more women enter the workforce, as economic factors make their incomes vital to supporting a family, and as their contributions continue to enhance our society, we must recognize the need to eliminate the inequities which discriminate against them. The tax and pension provisions in the Economic Equity Act represent a constructive step toward this goal. There are certain elements in this package, however, that I believe can be improved and I look forward to working with my fellow Members in addressing these provisions.

Mr. Chairman, Members of the Committee, I reiterate that this matter must be placed among our top priorities and I commend this Committee for addressing this comprehensive legislation.

Statement of Hon. Virginia Smith, a Representative in Congress From the State of Nebraska

Mr. Chairman, thank you for this opportunity to present my views on the issue of economic equality in tax and pension laws. I commend you for holding this hearing on matters of great importance to women.

Working women and homemakers face such poor odds in today's economy that Congress should do everything possible to remove the added burden of inequitable federal laws. The difference in earnings for men and women has narrowed slightly over the past few years, but women working year-round at full-time jobs still earn only 62 percent of what men make.

The number of women in the work force is increasing and so are their responsibilities. In 1981, women headed 18.8 percent of all families with children under 18 years of age, compared to 10.8 percent in 1970. Also, one in every six families is maintained by a woman, more than half of these women are in the labor force, and families maintained by women are more likely than other families to be in proverty.

These are some of the facts that indicate to me that Congress must act now to eliminate federal laws which adversely affect women. A first step would be to enact some of the legislation which I have cosponsored and which is being considered today.

I support liberalizing the spousal IRA rules to benefit spouses who have little or no earnings. I am a cosponsor of legislation to provide that, for purposes of determining the annual limits on deductible contributions to an IRA, the compensation taken into account in the case of a married couple would be that of the spouse whose compensation is greater. This legislation would allow a spouse with no compensation income to establish a IRA based on a spouses' income. This bill would especially help homemakers or those who must leave the workplace for a period of time to contribute fully to an IRA and gain the subsequent benefits of IRA funds upon reaching retirement age. This is particularly important to women in their later years—single women age 65–71 have a poverty rate of 27.6 percent and single women age 72 and above have an even higher rate of 31.7 percent.

I am also cosponsoring legislation to permit a spouse who has less than $250 of compensation includible in gross income, to elect to have IRA rules apply. This would eliminate the problem of the normally nonworking spouse who earns even $1 of compensation being barred from the full deduction for IRA contributions.

Women who help their husbands in business and on the family farm do not earn paychecks, yet they are contributing to the family income. They should not be denied equal opportunities to set up retirement plans just because they do not have a job that pays cash.

Mr. Chairman, women as a group have traditionally received a lower level of retirement income than men for a number of reasons. Further, married women are often dependent on their husband's pension for retirement income. In many cases, however, the wife never receives any of the husband's retirement pension. This may be due to divorce or because the husband elected not to provide survivor coverage for his wife. Legislation I have sponsored will correct some of these inequities.

The bill, which is supported by the Administration, would recognize the great importance to women of their early years of labor force participation and the special problems faced by married couples when a child is born. Under current law, pension plans may, and 40 percent do, exclude workers if they are under 25 years of age. My bill would lower the minimum participation age to 21. This change would be important especially for young women, whose labor force participation is highest—over 70 percent—between the ages of 20 and 24.

My bill would also insure that individuals on maternity or paternity leave would not incur a one year break-in-service for participation and vesting. This would prevent young parents from being penalized by their decision to have children and care for them in first months.

Another important area addressed by my bill relates to the equitable distribution and transfer of pension benefits when a couple divorces. After a family's house, a pension is likely to be one of the principal assets of a marriage. My bill would require that in the case of divorce after a joint and survivor annuity starts, the ex-spouse be eligible to receiver survivor benefits. Further, the bill would provide that a spouse can directly attach the employee's pension in child support, alimony, and marital property cases, and requires that the plan, to the extent the court orders, split the participant spouse's pension account between the divorced husband and wife, and provide the non-participant ex-spouse with the option for an annuity based on her own life expectancy.

In addition, the bill would provide that a participant's election not to receive a joint and survivor benefit is effective only if the participant's spouse consents in writing to the election. This is an important safeguard to assure that a nonparticipant spouse plays a role in deciding whether such spouse's survivor benefit should be rejected in favor of a form of benefit without survivor protection.

These are a few of the provisions of my bill, Mr. Chairman, which I believe represents a reasonable and responsible approach to achieving the goal of enhanced pension equity for the growing number of women workers and beneficiaries dependent on private pensions for their retirement income.

Other legislation before the Committee regarding child and dependent care tax credits would go a long way toward helping provide adequate care for elderly dependents. As the population ages and life expectancy increases, there will be an increasing demand for long-time care services by the elderly and their families. This is especially true in rural areas like my Third District of Nebraska. The median age of women in Nebraska for rural areas is 33.6 years while the national median is 30.3 years. Across the nation, the elderly population increased to its highest proportion in history—11.4 percent—while in Nebraska the elderly make up 13.1 percent of the population. According to the American Association of Retired Persons, one in ten middle-aged women between 45 and 65 have responsibility for older relatives. Many of these women, out of necessity, hold jobs in addition to the great responsibility of caring for an elderly relative.

Expanding the credit is important in order to keep up with the need of the increasing number of women entering the workforce. Over the past twenty years, the number of women in the workforce has increased from 23 million in 1960 to 43 million in 1980. By 1990, that figure is expected to increase to more than 60 million. Women often work out of necessity; 35 percent of two-income families would have to survive on $15,000 a year if the woman were not employed.

For these reasons Congress should expand the existing tax credits for dependent and child care.

Mr. Chairman, I urge the Committee to quickly act on legislation to eliminate provisions of the law which discriminate against women. I appreciate the opportunity to present my views today.

STATEMENT OF DR. MARY W. GRAY, NATIONAL PRESIDENT, WOMEN'S EQUITY ACTION LEAGUE

Mr. Chairman, members of the Committee, on behalf of the Women's Equity Action League (WEAL) I should like to thank you for asking me to testify at this hearing. WEAL specializes in issues of economic equity and has been particularly concerned with education, employment, women in the military, and issues affecting older women. High on our priority list is pension reform. H.R. 2090, if enacted, would be a small but useful step toward a better life for older women, women who have labored many years either at discriminatorily low wages outside the home or spent their most productive years caring for husbands and children as their contribution to the family's prosperity. Working women are doubly disadvantaged; their pensions are usually even less than those of comparably paid men as well as their pay being less in the first place. Nor do private pensions provide adequate security and protection for workers' spouses in recognition of their share in the family's earnings.

In 1974, Congress enacted the Employment Retirement Income Security Act (ERISA), the first law providing comprehensive protection for workers who participate in private pension programs. While ERISA significantly improved the operation of that system, the law did not adequately address the special needs of women.

In this Congress a number of bills, including H.R. 2090 and S. 888, the Economic Equity Act; H.R. 2100 and S. 918, the Private Pension Reform Act; S. 19, the Retirement Equity Act; and H.R. 100 and S. 372, the Non-Discvrimination in Insurance Act, have been introduced which are designed to correct a number of inequities in current law which particularly affect working women and homemakers. These proposed pension reform measures are economically sound, as well as sensible and fair, and they should be enacted. However, as important as these proposals are, they do not address the basic flaws in the current pension system which work to deny pension protection to large numbers of workers. We look first at problems affecting working women.

There are four fundamental problems with the present system. First, under current law, the vast majority of workers covered by plans must work 10 years for the same employer just to qualify for a pension. According to the Bureau of Labor Statistics (BLS), 88 percent of full-time employees in large and medium size firms are in plans with 10-year vesting rules. Fewer than one out of five women and one out of three men have been in their current jobs that long. In addition, employees under 25 (or in some cases under 30) can be excluded entirely from pension plan participation. Usually part-time workers are excluded, impacting disproportionately on women.

Second, those who qualify frequently find that their pension is worth far less than they expected because current law permits plans to take their Social Security payments into account in calculating their private pension benefits. This practice, called Social Security integration, can virtually eliminate the entire pension benefit a worker would otherwise be entitled to receive under the plan. And, according to BLS, 43 percent of full-time employees in large and medium size firms are covered by integrated pension plans.

Third, our pension system makes it extremely difficult to transfer credits from one plan to another. When workers with vested pension rights change jobs, their benefits are frequently frozen and cannot grow at all from the time they leave that job until retirement. As a result, workers who change jobs several times during their working lives and earn a pension at each job will have to live on much lower pension incomes than they would if these separate amounts could be transferred and could continue to earn interest during their entire working lives. The situation is even worse if the employees have worked at a single job for less than the vesting period; they may have worked for forty years and have no pension rights at all. Because the average length of time on the job is less for women than for men, these regulations impact more heavily on women.

Fourth, nineteen years after the passage of Title VII and five years after a Supreme Court decision making it perfectly clear that employers may not use sex-segregated actuarial tables to compute employee contributions and benefits, many pension plans still pay women less than their male colleagues who have worked the same number of years for the same salaries.

Of course, another basic problem with women's pensions is not addressed by any pension-reform; full-time women workers still earn only sixty percent of what full-time men workers earn.

Complementary to the problems women workers face with the present private pension system are the problems faced by homemakers. Neither Social Security nor private pension plans are based on a concept of earnings sharing which could give adequate recognition to a homemaker's economic contribution to the family unit. Widows and divorced spouses are frequently left entirely without protection from the private pension system.

THE "NOT-SO-GOLDEN" YEARS

Retirement-age women face severe economic problems, whether they worked primarily outside or within the home. The receipt of a pension—earned from their own work experience or that of their spouses—is crucial to the financial security of older women. Yet too often the law fails to award them the pension they have earned. The private pension reforms contained in H.R. 2100 would remedy some of these inequities.

60 percent of all persons 65 or older were women in 1982.

Only 10 percent of women 65 and older received benefits from a private pension in 1980; 27 percent of men 65 or older received benefits.

For those women receiving a pension, the median pension income was $2,375, based on their own work experience or that of a spouse. Men received $4,103.

The median annual income for older women from all sources (savings, pension, social security) was $4,757. For men it was $8,173.

Single (widowed, divorced, or never married) women constitute 85 percent of the number of elderly living alone below the poverty level.

52 percent of white women over 65 and 84 percent of Black women over 65 live near or below the poverty level.

PENSIONS AND WOMEN AS WORKERS

Over half the women 16 or older who work outside the home are not covered by pension plans; those who are covered rarely receive benefits.

53 percent of women 16 or older work outside the home, constituting 44 percent of the nation's workforce in June 1983.

LACK OF COVERAGE

In 1979, only 40 percent of full-time women workers were covered by pension plans, compared to 55 percent of men. Why are so few women covered?

Few part-time workers are covered. 30 percent of all women workers are part-time, while only 11 percent of male workers are.

Few workers under age 25 are covered. Labor force participation is highest for women between ages 20 and 24—70 percent in 1982. Many women are employed in educational institutions where, under certain circumstances, all workers under age 30 may be excluded.

Small non-union retail and service industries rarely provide plans.

40 percent of women workers are employed in these industries.

H.R. 2100 would lower the minimum age for participating in a pension plan from 25 to 21 years of age and lower the minimum age for vesting from 22 to 21.

RARE RECEIPT OF BENEFITS

Only about 9 million workers were covered by pension plans in 1979 and less than one half of these had attained vested status (the right to participate in and eventually retire on a benefit even if the employee leaves her job before retirement age).

Less than 15 percent of full-time working women have acquired vested status. Most women workers are not vested because of unusual and intermittent work patterns. They are clustered in high turnover, low prestige jobs. Low job tenure rates result in failure to fulfill most plans' vesting requirement (usually ten years of continuous service). Women who leave their jobs for family responsibilities generally lose credits for earlier years of service even if they return to the same employer.

The median number of years on the job for women is 2.5 compared to 4.0 for men.

H.R. 2100 would help ease the burden of break-in-service requirements by: Modifying the rules to give partial credits for up to one year of employer-approved maternity or paternity leave, provided the employee returns to her or his job.

PENSIONS AND WOMEN AS SPOUSES

Women who are widowed or divorced suffer greatly from current laws which do not recognize marriage as an economic partnership and the pension as property jointly earned by both spouses. Women are often denied their fair share of their spouses' pensions at death or divorce because of arbitrary requirements and loopholes in legislation.

WIDOWS

When an employee who is eligible for retirement benefits retires, the pension is automatically reduced to allow for a survivor's benefit. An employee currently may reject this benefit and receive her or his "full" benefit without her or his spouses's consent. Many women find out at the funeral that the pension they had counted on for their old age security was "opted out" of by their late husbands.

Only five to ten percent of surviving spouses receive their husbands' benefits.

Sixty percent of men "opted out" of the survivor benefit in 1978.

Opting out is not the only pitfall women face in trying to collect a survivor benefit. If a spouse dies while working, even if he is fully vested, the women often loses all claim to the benefit. In order to collect, the widow must meet several stiff requirements: The plan must have a provision that would allow early retirement and the spouse must have reached the "early survivor option age" specified; and the plan may not pay if the employee dies of "natural causes" within two years of signing the early survivor agreement.

H.R. 2100 would: Establish automatic survivor benefits unless BOTH spouses waive the benefits in writing, require a pension plan to provide benefits for a widow if the worker has worked past early retirement and had chosen survivor benefits but has died before retirement, allow a widow to collect survivor benefits if her working spouse was fully vested but dies before early retirement age (usually age 55).

DIVORCED WOMEN

A divorced woman is often denied her fair share of the pension even if her particular state allows its inclusion in the divorce settlement. A loophole in the law prevents a payment of the pension to anyone except the retiree, to protect it from creditors. Some companies have refused court-ordered payments because they claim the ex-spouse is a creditor. This means economic disaster for many women: A woman's standard of living decreases an average of 73 percent upon divorce while a man's increases an average of 42 percent, and only four percent of divorced women receive maintenance payments from their ex-spouses.

A spouse divorced after the starting date of an annuity currently loses survivor benefits.

H.R. 2100 would ease the situation of divorced women by: Providing that the anti-assignment provision in the current law—the Employment Retirement Income Security Act of 1974—need not apply in decrees related to child support and divorce. Pensions would become a property right in divorce cases, and insuring that a spouse divorced after the annuity starting date would not lose survivor benefits.

I have addressed the provisions of H.R. 2100 because they do more to advance the cause of equity for women than do the somewhat similar provisions of other pension reform bills for women. None go nearly far enough to reform the private pension system.

The issue of cost has been raised—yes, there is a cost to pension reform—a cost to remedy wrongs and a cost to continue to endure them. At the moment the cost is born by older women. It is time to share the cost—to those who say we cannot afford to enact the reforms, I say we cannot afford not to.

Nevertheless, we are sensitive to the costs of reform. The conclusion is clear: the pension and insurance industry figures are inflated and largely speculative. In particular, most of the costs of equalization of pension benefits either are attributable to a series of court decisions and to Title VII of the Civil Rights Act of 1964 or are eliminated by minor modifications to the legislation as drafted. Moreover, the net gain to women of the elimination of sex discrimination in pensions and insurance would be substantial. That is why so many women's and civil rights groups support H.R. 100 and H.R. 2100.

CONCLUSION

H.R. 2100 incorporates the private pension provisions of the Economic Equity Act. The Economic Equity Act is a package of legislation which signifies a first small step toward financial independence for women. It contains, along with private pension reform, provisions for spousal IRAs a Displaced Homemaker's tax credit and Head of Household tax reform, as well as dependent care tax provisions which are essential for working families. We urge the prompt passage of these measures.

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